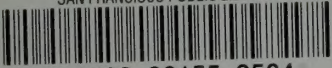


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STATE OF CALIFORNIA

*Legislature*

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HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

SENATOR DAVID ROBERTS, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM HILLIS

SENATOR HENRY HELLER

SENATOR NICHOLAS PITRE

STATE PRESENT

CLIFF BRADY, Executive Officer

STATE CAPITOL

PAT WEBB, Committee Secretary

ROOM 113

NICK BOLLENS, Consultant on Bill Referrals

SACRAMENTO, CALIFORNIA

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

JOHN W. CEFALO, Member  
All Resources Board

WEDNESDAY, JANUARY 6, 1988

MICHAEL B. MORGAN, Member  
Occupational Safety and Health Board 1:45 P.M.

ANGIE L. SAPIRDAVIS, Member  
State Board of Education

FRANCIS LAUFENBERG, Vice President  
State Board of Education

TERRY DYER, President  
State Board of Education

GLORIA HON, Member  
State Board of Education

REV. LEO SWEENEY, Legislative Advocate  
Traditional Values

BENJAMIN LOPES, Advocate

Reported by: Paul Legal Assistants and  
California Association for Bilingual Education

Evelyn Mizak  
Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM ELLIS

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

JOHN N. CEFALU, Member  
Air Resources Board

MICHAEL R. MONAGAN, Member  
Occupational Safety and Health Appeals Board

ANGIE L. PAPADAKIS, Member  
State Board of Education

FRANCIS LAUFENBERG, Vice President  
State Board of Education

PERRY DYKE, President  
State Board of Education

GLORIA HOM, Member  
State Board of Education

REV. LOU SHELDON, Legislative Advocate  
Traditional Values

BENJAMIN LOPEZ, Advocate  
California Rural Legal Assistance and  
California Association for Bilingual Education





APPEARANCES (Continued)

ERIC VEGA, Advocate  
Mexican American Legal Defense and Education Fund

LELAND Y. YEE, President  
Asian Pacific American Coalition

RENE MERINO, Past President  
Association of Mexican American Educators





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Adjournment

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P R O C E E D I N G S

--oo0oo--

CHAIRMAN ROBERTI: The first Governor's Appointee to appear, John N. Cefalu. Mr. Cefalu is an appointee for the Member on the Air Resources Board.

We will ask you what we ask all the Governor's Appointees, and that is how do you feel you're qualified to assume this position?

MR. CEFALU: Mr. Chairman, I have served approximately 20 years in local government, having been a resident of the Lake Tahoe Basin, a rural county, for over 30 years. I feel with the experience I've had as a private businessman as well as a public servant, I feel qualified to serve as the Air Resources Board appointee.

CHAIRMAN ROBERTI: How long have you been on the Board?

MR. CEFALU: I have served now eleven months.

CHAIRMAN ROBERTI: California in some areas is falling behind in meeting the federal air quality standards.

Do you have any recommendations on what we can do to maintain ourselves as far as federal standards are concerned, or do you think our pace is adequate?

MR. CEFALU: Well, of course, in the eyes of the federal government, the pace is not adequate. Obviously we have not obtained our standards by the deadline.

I think that the State and the Air Resources Board have made a valid effort at attempting to meet those standards, and the unfortunate fact is that we have, I think, not necessarily





1 lost the battle, but not reached the attainment by virtue of the  
2 fact that the increase in population in this state, not to speak  
3 of the increase in automobile use in this state, has served to be  
4 detrimental to meeting that goal.

5 CHAIRMAN ROBERTI: How far would you recommend that the  
6 ARB go in imposing new costs on stationary sources or mobile  
7 means of transportation?

8 MR. CEFALU: Well, as we reach -- and please understand,  
9 I've had eleven months of experience and have become intimately  
10 aware of the seriousness of the air pollution problem in the  
11 state. The facts are that as we reach to the bottom of the list  
12 of strategies to control air pollution, they become more  
13 expensive.

14 I think the question of cost effectiveness is an  
15 essential element that must be considered, and I think, in my  
16 opinion, as we reach to the bottom of that list, we're going to  
17 look to changes in life style which I think are going to be  
18 necessary to accommodate meeting the pollution standard in the  
19 next decade.

20 CHAIRMAN ROBERTI: Any other questions of Mr. Cefalu?

21 Is there any opposition in the audience?

22 Do I hear a motion?

23 SENATOR CRAVEN: I move.

24 CHAIRMAN ROBERTI: Senator Craven moves Mr. Cefalu's  
25 confirmation be recommended to the Senate for confirmation.

26 Secretary will call the roll.

27 SECRETARY WEBB: Senator Ellis.  
28





1 SENATOR ELLIS: Aye.

2 SECRETARY WEBB: Senator Mello.

3 SENATOR MELLO: Aye.

4 SECRETARY WEBB: Senator Petris.

5 SENATOR PETRIS: Aye.

6 SECRETARY WEBB: Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Senator Roberti.

9 CHAIRMAN ROBERTI: Aye.

10 The vote is five to nothing; confirmation is  
11 recommended.

12 Congratulations.

13 MR. CEFALU: Thank you, Mr. Chairman.

14 CHAIRMAN ROBERTI: The next Appointee is Mr. Michael  
15 Monagan, Member of the Occupational Safety and Health Appeals  
16 Board.

17 Let's see. We had you here before. Did we ask you any  
18 questions the last time you were here?

19 MR. MONAGAN: We didn't quite get that far.

20 CHAIRMAN ROBERTI: Then we'll ask you why you feel  
21 you're qualified to assume this position?

22 MR. MONAGAN: Thank you, Mr. Chairman, Members.

23 Michael Monagan. I've served as a Member of the Appeals  
24 Board for two and a half years.

25 Prior to that, I was an airline pilot for twelve years,  
26 and was a Navy pilot for five years before that.



1           There has been some controversy surrounding the Cal-OSHA  
2 program this last year, but I'm pleased to report that the  
3 Appeals Board has continued to uphold its statutory obligations.  
4 We have virtually eliminated our small backlog from a year ago.  
5 At the same time, we have reduced our budget by nearly two-  
6 thirds.

7           I have faith that the Appeals Board can continue such a  
8 performance in whatever form Cal-OSHA takes, and I would be  
9 honored to continue to serve as a Member.

10          CHAIRMAN ROBERTI: Very good, thank you.

11          Senator Petris.

12          SENATOR PETRIS: Well, I'd like very much to see Mr.  
13 Monagan perform in that function.

14          I'm still troubled by the basic issue that we had talked  
15 about last time. Apparently the Governor's position hasn't  
16 changed at all.

17          I understand the court, in one of the cases -- there  
18 have been more than one lawsuit floating around -- the court, and  
19 I haven't read the decision, but I understand the court has ruled  
20 that he can't do what he was trying to do: emasculate the agency  
21 and make a statutory change by removing money and not operating.

22          So, the basic questions is still the same, except for  
23 the cases that are still in the pipeline. What's the point of  
24 having an Appeals Board sitting over a dead agency, you know,  
25 unless he's compelled to renew it?

26          Can you give us any information on that?

27

28





1 MR. MONAGAN: Well, the issue that's in the court is  
2 private sector enforcement, and Cal-OSHA is still responsible for  
3 public sector enforcement.

4 There has to be an appeal process for those public  
5 agencies, so there is still a need, whatever form Cal-OSHA takes,  
6 there's still a need for an appeal process.

7 CHAIRMAN ROBERTI: I was of your opinion, Senator, but I  
8 tend to think, with the court cases moving apace, there's a  
9 strong likelihood that the court will reinstitute Cal-OSHA if the  
10 Legislature cannot. I see nothing wrong, if that's the case, in  
11 my own opinion, of having the Board in place.

12 SENATOR PETRIS: Well, what troubles me is that the  
13 court has to step in and do it --

14 CHAIRMAN ROBERTI: I agree.

15 SENATOR PETRIS: -- because they've been pulled into it.  
16 It seems to me the Governor ought to make that decision. It's a  
17 matter of good government.

18 So, now you're limited to the public sector. What  
19 happens to the private sector? Is the non-enforcing federal  
20 agency, that really doesn't do a damn thing, going to be in  
21 charge with five people to cover the whole State of California?

22 MR. MONAGAN: Well, presently that's the case.

23 SENATOR PETRIS: That's not acceptable to me.

24 It's nothing -- as I told you last time, I think you do  
25 a great job if you were given a job to do. But to emasculate the  
26 agency, and go in there and say, "Well, the courts have stopped  
27 the Governor; therefore the Governor's off point and he ought to  
28



1 take over," just to me is outrageous. It's outrageous. I think  
2 it's just bad government.

3 And I'm sorry you're in that spot because I have a high  
4 regard for you. Part of it's coming from your dad, since I was  
5 his seat mate on the Floor, and part of it's just knowing about  
6 you. I mean, it puts us in kind of a bad spot here.

7 And yet, we're up against a deadline now; aren't we?  
8 What is your deadline for confirmation?

9 MR. MONAGAN: I believe that it's the 23rd of this  
10 month.

11 SENATOR PETRIS: That's a very, very short time.

12 So, what you're telling us now is, in view of the court  
13 decision, we're going to have a crippled agency that's going to  
14 be dealing only with public employees. And there was a big fight  
15 over that a couple or three years ago, wasn't there, as to  
16 whether they had jurisdiction or whether somebody else did?

17 MR. MONAGAN: No, California's always had jurisdiction  
18 over the public sector.

19 SENATOR PETRIS: Now, when you compare public employees,  
20 what we are talking about? Highway workers?

21 MR. MONAGAN: City employees, county employees --

22 SENATOR PETRIS: An awful lot of office people. There  
23 aren't too many industrial accidents coming out of offices. It's  
24 in the private sector and factories. That's what the original  
25 intention was, to provide a mechanism for them.

26 MR. MONAGAN: All the State workers that are in the  
27 Forestry Service, things like that, are coming under Cal-OSHA.  
28





1 CHAIRMAN ROBERTI: Any further questions?

2 SENATOR PETRIS: Well, I sure don't want to block your  
3 appointment because you're not the one I have the problem with.

4 Thank you, Mr. Chairman.

5 CHAIRMAN ROBERTI: Any further questions?

6 Any opposition?

7 SENATOR CRAVEN: Move Mr. Monagan.

8 CHAIRMAN ROBERTI: Senator Craven moves Mr. Monagan's  
9 appointment as a Member of the Occupational Safety and Health  
10 Appeals Board be recommended to the Floor.

11 The Secretary will call the roll.

12 SECRETARY WEBB: Senator Ellis.

13 SENATOR ELLIS: Aye.

14 SECRETARY WEBB: Senator Mello.

15 SENATOR MELLO: Aye.

16 SECRETARY WEBB: Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Senator Craven.

19 SENATOR CRAVEN: Aye.

20 SECRETARY WEBB: Senator Roberti.

21 CHAIRMAN ROBERTI: Aye.

22 The vote is five to nothing; confirmation is  
23 recommended.

24 Congratulations.

25 Angie Papadakis, Member of the State Board of Education.

26 Excuse me, Ms. Papadakis, would you wait momentarily  
27 while we take up some legislative business?  
28



(Thereupon the Committee considered legislative matters.)

CHAIRMAN ROBERTI: Angie Papadakis, State Board of Education.

SENATOR PETRIS: May I request a five-minute recess.

CHAIRMAN ROBERTI: Senator Petris is requesting a recess. Any opposition? Hearing none, such will be the order.

(Thereupon a brief recess was taken.)

CHAIRMAN ROBERTI: The Committee will come to order.

Angie Papadakis, Member of the State Board of Education.

Ms. Papadakis, we will ask you what we ask all the Governor's Appointees, and you've been here before, why do you feel you're qualified to maintain this position?

MS. PAPADAKIS: Thank you very much for the opportunity to speak.

I am Angie, you're right, Papadakis. In San Pedro it's Pap-a-day-kiss, but every place else it's pronounced correctly, so I don't fight over that. I let my husband worry about the pronunciation of his name.

I serve on the State Board of Education. I have served for the past four and a half years, and I am here today to ask for your reconfirmation so that I can continue to plow through a mountain of mail, an avalanche of agendas, a river of reports, a torrent of telephone messages that I personally answer. I do all -- I answer all my -- I am the staff that answers all these.

In four and a half years, I've missed only two meetings, and I have never been tardy, and only once did I leave a Board





1 meeting 15 minutes before the Board meeting was adjourned in  
2 order to get home in time to celebrate my father's 89th birthday.

3 I tell you all this because I want you to know that I do  
4 take my responsibility to the 4.3 million students seriously. I  
5 also take seriously my responsibility to their parents, their  
6 teachers, their administrators, also to the Legislators, and to  
7 the Governor who appointed me, and most importantly, to the tax  
8 paying citizens who support public education, because 78 percent  
9 of them do not have a child in public school, and yet it's their  
10 tax dollar that supports. So the public schools, as Dr. Harry  
11 Handler, former Superintendent of L.A. said, belong to the  
12 public.

13 Next to my family, and I have a big family, the State  
14 Board of Education is my number one preoccupation. So why is it  
15 so important to me? Because I am a recipient of a free  
16 California public education. And if it were not for that  
17 education and the opportunities it afforded me, I would not be a  
18 writer; I would not have my own advertising firm; I would not be  
19 a platform speaker keynoting conferences and conventions; I would  
20 not be chairing the Round Table Against Gang Violence in the  
21 Harbor area; I would not be serving on the corporate board of  
22 United Way, or on the Los Angeles Area Council, the Boy Scouts,  
23 or on the Salvation Army Board, or on the Los Angeles Educational  
24 Partnership Board.

25 If my parents had not come to America, and I had not  
26 received an education, I'd probably be in a little Greek village  
27 called Karia, milking a goat. I went to my father's village, and  
28



1 when I got there that's what my cousin was doing -- milking a  
2 goat, and going to the well and getting water, baking her own  
3 bread, weaving her own blankets. Her closet was one hook behind  
4 the door, and that's where her one Sunday dress hung. She was 55  
5 years old, and she'd never been more than five miles outside of  
6 her village, and I've been halfway around the world.

7 The only difference between her and me was education and  
8 opportunity, and that's what this country is all about.

9 I want all immigrants to have the same opportunities  
10 that I had. My father was not a lawyer, or a doctor, or an  
11 engineer. He was a sheep herder who had run out of sheep.  
12 That's why he came to America when he was 14 years old, to  
13 support his widowed mother and his four sisters.

14 I know what it is to be the child of immigrants. When I  
15 entered Santa Barbara Avenue School in Southwest Los Angeles, I  
16 couldn't speak one word of English. I know what it is to live in  
17 two worlds. I know what it is to go to school on rainy days with  
18 holes in the soles of my shoes. I know what it is to be  
19 embarrassed because our family car was a pickup truck. I know  
20 what it is to forge my mother's signature on school papers  
21 because she couldn't write her name in English.

22 Some think that I am against immigrants. That is not  
23 true. We are a nation of immigrants. It is the mixture of  
24 colors and cultures, of genes and germs, that's made this the  
25 greatest nation in this world.

26 I had an item in last February's Reader's Digest that  
27 went:  
28





1 "You may go to France and never become  
2 a Frenchman. You may go to Greece and  
3 never become a Greek. You may go to  
4 China; you'll never become a Chinaman.  
5 To Russia and never become a Russian.  
6 Japan, never become a Japanese. But  
7 anyone can come to America and become  
8 American. That is the greatness of  
9 this country we call the United States."

10 Some think that I'm against bilingual education. I am a  
11 strong supporter of bilingual education. I am bilingual. I got  
12 a bilingual education. I went to American school. And Monday,  
13 Wednesday and Friday afternoon, I went to Greek school.

14 I am proud of the fact that I can read, write and speak  
15 in two languages. Even though I must admit, I hated going to  
16 Greek school. We had a Greek school teacher who was a real bear.  
17 If you didn't know your lesson, you'd get rapped on the knuckles,  
18 or he'd pull your ear.

19 Remember Macroyanni? Did you have Macroyanni up here in  
20 San Francisco? You sent him down to us because he was so tough.

21 SENATOR PETRIS: We had his twin over in Oakland.

22 MS. PAPADAKIS: Okay.

23 Why then was I opposed to bilingual bills AB 2813 and  
24 AB 37?

25 Because they did not reflect the reforms called for by  
26 the State Board of Education in our policy paper on the education  
27 of limited English proficient students.  
28



1           The Board believed that the bilingual program needed to  
2 be adjusted, and we did not find those adjustments in the  
3 amendments to AB 37. That is why we took an opposed position,  
4 and the vote was unanimous. But no one on the Board -- not I,  
5 nor anyone else -- ever advocated dismantling the bilingual  
6 program.

7           As for myself, I did not wake up one morning and decide  
8 that there was room for improvement in the bilingual program. I  
9 was made aware of some of the problems. I got letters; I got  
10 phone calls; I visited classrooms; I talked with teachers,  
11 parents, students, principals, superintendents. I read; I  
12 listened; I witnessed; I learned.

13           They said that children should not be language assessed  
14 the first week they are enrolled in kindergarten. They said some  
15 children don't or won't speak any language, but by the time they  
16 graduate kindergarten, they are all chatterboxes.

17           They said that written parental consent should be  
18 required so that parents would be involved in the education of  
19 their children. Parents should say in which language they want  
20 their children to be educated.

21           They also protested the waiver system. Some teachers  
22 said they had been on waivers for six years and still had not  
23 passed all three parts of the bilingual competency test.

24           But the one prevailing problem that kept surfacing was  
25 the density and the diversity of the student population, and the  
26 sparsity of qualified bilingual teachers to service them. Every  
27 month, the Board had hundreds of districts that were in  
28





1 noncompliance. Every month, the Board had to deal with granting  
2 hundreds of waivers.

3 Please know that I know that children can and should  
4 learn two languages. In fact, the first time I came up for  
5 confirmation in front of this Committee, I advocated foreign  
6 language instruction for all students beginning in the first  
7 grade and continuing through high school. Even though English  
8 happens to be the international language, there is no reason in  
9 the world why this nation should be monolingual. Every other  
10 industrialized country is teaching their children two and three  
11 languages, and starting in elementary school.

12 I proposed this to the State Board of Education, but I  
13 did not get the support necessary to make it a priority item.  
14 The snag, there again, is the shortage of qualified foreign  
15 language teachers.

16 And what's the remedy? A bigger carrot? I don't know  
17 how else. That's how industry gets bilingual people.

18 But I have not given up on it, because I believe that  
19 the future of this nation, if we are to not only survive but  
20 progress economically, socially, peacefully, we must be able to  
21 communicate with each other and the rest of the world.

22 The adjustment I advocated in the bilingual program was  
23 an alternative method of instruction when a qualified bilingual  
24 teacher was not available; such as ESL, sheltered English,  
25 structured immersion, or an individual learning program. These  
26 planned variation programs can be taught by teachers who are not  
27 bilingual, and they can be supported by bilingual aides.  
28



1 But placing a cap of 10, 15, or even 25 percent on these  
2 English instruction classes still does not take into account the  
3 desperate shortage of bilingual teachers.

4 The Moscone-Chacon bill, 507, which AB 2813 and AB 37  
5 proposed to extend, called for primary language instruction. And  
6 if a qualified bilingual teacher was not available, then a  
7 monolingual teacher must sign a waiver, go back to school two  
8 nights a week and learn the language of her students, the  
9 culture, and the methodology. Meanwhile, she must rely on an  
10 aide to offer the instruction in the primary language.

11 Given the size of classes in California, 30-35, aides  
12 are necessary helpers in every classroom. But if the teacher  
13 cannot speak the language of her students, then the aides become  
14 the teachers.

15 In L.A. Unified, there are 6,400 bilingual classrooms.  
16 There are 2,100 certified bilingual teachers; 4,300 are being  
17 conducted by teachers on waiver and aides.

18 I have seen outstanding bilingual programs when the  
19 teacher can speak both Spanish and English, or both Vietnamese  
20 and English, or Chinese and English. Children can learn two  
21 languages.

22 I have a three-year-old grandson who's learning three  
23 languages: English, Spanish and Greek. And I would have brought  
24 him here to prove my point, but he's visiting his maternal  
25 grandparents in Caracas.

26 I have seen Spanish immersion programs that work  
27 wonderfully well. I have seen Chinese immersion programs that  
28





1 work wonderfully well. But I've also seen English immersion  
2 programs that work wonderfully well.

3 I have come to the conclusion that the key is the  
4 teacher and not the program. The teacher is a professional.  
5 Education doesn't happen with programs. It happens between  
6 teacher and pupil, or it doesn't happen at all.

7 Our students, and most especially our limited English  
8 proficient students -- and before I say it once more, I really  
9 have to protest the use of the word "limited" because no student  
10 is limited English proficient who is not enriched by his own  
11 primary language. And limited is not a word for children. It's  
12 a word for people my age who can't see too well, and can't hear  
13 too well, and can't run too well.

14 But let me refer to them as students who cannot speak  
15 English. They deserve the help and the guidance that only a  
16 qualified professional can give them. I would not take my  
17 grandson to a barber college for a haircut, and yet the hair  
18 would grow back. How can we give back the time we have taken  
19 from these students?

20 It is true that in my heart of hearts, I do favor one  
21 method of instruction over another because that is the way I  
22 learned English, by being taught in English. That is the way I  
23 learned Greek, by being taught in Greek.

24 But I would not superimpose one method of instruction on  
25 every other student who could not speak English any more than I  
26 would superimpose one method of learning any subject, or any one  
27 text book, or any one point of view, opinion or philosophy. That  
28 is not for people in this country.



1 We have over 1,000 districts in California, some with  
2 only 50 students and some with hundreds of thousands. We have  
3 almost a hundred different language barriers to overcome. One  
4 method of instruction cannot possibly answer the needs of every  
5 individual student in every individual district.

6 I want the best education for all of our children. I  
7 want to see California lead the nation scholastically, not trail.  
8 We cannot accept low SAT scores. We cannot accept a 37 percent  
9 dropout rate. We cannot accept only three percent enrollment of  
10 Hispanic students in our universities. Demography is destiny.  
11 Now half of our students are minority; soon they will be the  
12 majority. We must find a way to educate all of them, for every  
13 one of them is part of our future.

14 That is my only mission. That is my only goal, and  
15 that's the only reason I'm here today.

16 CHAIRMAN ROBERTI: Thank you, Ms. Papadakis.

17 I do not know if you addressed especially the reasons  
18 why you opposed the extension of the bilingual education program  
19 in California. Was that the Moscone-Chacon bill?

20 MS. PAPADAKIS: Yes.

21 CHAIRMAN ROBERTI: I don't recall specifics. You were  
22 saying that we don't have enough teachers.

23 MS. PAPADAKIS: That's one; that's only one.

24 CHAIRMAN ROBERTI: What are the other reasons?

25 MS. PAPADAKIS: The Moscone-Chacon bill is superimposing  
26 one program, one method of instruction, on all students who are  
27 limited English proficient. I don't feel that that can answer  
28 the needs of every district.





1 CHAIRMAN ROBERTI: What is the one program?

2 MS. PAPADAKIS: Just one program. I mean, one  
3 particular method of instruction might suit a district --

4 CHAIRMAN ROBERTI: You're saying that there's no place  
5 for immersion?

6 MS. PAPADAKIS: There is planned variation, but there is  
7 also a cap on how many planned variation programs you could --  
8 and you also had to get --

9 CHAIRMAN ROBERTI: The cap was 25 percent?

10 MS. PAPADAKIS: In some districts. In some districts it  
11 was 10 percent, depending upon how many classrooms.

12 CHAIRMAN ROBERTI: So it strikes me that your quarrel,  
13 if there is one, is with the cap, not because there were not --

14 MS. PAPADAKIS: With the cap, yes.

15 CHAIRMAN ROBERTI: -- alternative methods presented?

16 MS. PAPADAKIS: That's right. My quarrel was that it  
17 did not allow the freedom for administrators to plan class sizes,  
18 to staff class sizes, and to service the pupils. They were so  
19 worried about being in compliance with the program that they  
20 didn't have time to worry about really servicing the educational  
21 needs of the students.

22 I mean, there were so many restrictions in the program.  
23 We had --

24 CHAIRMAN ROBERTI: Don't you think that maybe one of the  
25 reasons why there was a cap was that the fear of the bilingual  
26 approach -- that is, I suspect, and I'm not an expert on this by  
27 a long shot -- teaching English and teaching English courses by  
28



1 the use of another language would be treated by hostility in some  
2 school districts, and therefore unless there was a cap, there  
3 would be no place for the bilingual approach?

4 MS. PAPADAKIS: Oh, I would hate to think that that  
5 would be the case.

6 CHAIRMAN ROBERTI: I would hate to think that's the  
7 case, too, but it strikes me that it is the case.

8 MS. PAPADAKIS: Historically we have had problems a long  
9 time ago, but I don't believe that in today's -- under today's  
10 climate that that is possible, not with the Office of Civil  
11 Rights.

12 CHAIRMAN ROBERTI: You therefore don't think that  
13 there's any problem in teaching of educational courses to a  
14 Spanish-speaking farmworker, in a very rural part of California,  
15 now that we have the Office of Civil Rights?

16 MS. PAPADAKIS: I am sorry; I didn't understand your  
17 question. I didn't hear it.

18 CHAIRMAN ROBERTI: You indicated that you don't think in  
19 today's world there is a problem now with this other approach,  
20 that teaching courses in the language of the child's background  
21 or culture, whatever it is, would ever be denied by a school  
22 district in this day and age.

23 MS. PAPADAKIS: I don't think it's possible.

24 CHAIRMAN ROBERTI: You don't think that is the case in  
25 parts of rural California?

26 MS. PAPADAKIS: Well, school boards have to answer.

27 CHAIRMAN ROBERTI: Not to pick on rural California.  
28





1 MS. PAPADAKIS: Okay, not to pick on rural California.

2 CHAIRMAN ROBERTI: I could think of some other areas as  
3 well.

4 MS. PAPADAKIS: School boards have to answer, have to  
5 answer for the instruction, the curriculum, that is enforced in  
6 their school districts. And I doubt that they could -- if they  
7 had a plethora, an abundance of Hispanic students who do not  
8 speak the language, they've got to find a way to implement to  
9 educate them.

10 CHAIRMAN ROBERTI: What they've got to do and what has  
11 happened, I think, may be two different things.

12 What I fear is that you voted against the bilingual  
13 education, but in a vacuum of California history. And in  
14 California history, certain groups, and because the largest is  
15 Hispanic I'll say that, in some areas of the state have been  
16 treated as an underclass, and have been treated as an underclass  
17 so much so that the school districts have not given their culture  
18 and their ability to learn in a bilingual fashion fair play. And  
19 that's why these quotas had to be imposed, just as the Voting  
20 Rights Act had to impose quotas on the number of people who were  
21 of minority extraction who might be able to vote. They drew the  
22 criteria to see whether a certain area overcame discrimination of  
23 the past.

24 I would say that the Moscone-Chacon bill was just that.  
25 A quota had to be imposed just to make sure that the  
26 discrimination of the past had been overcome.

27  
28



1           You're saying that in this day and age it's hard to  
2 believe.

3           I have to say in respect, Ms. Papadakis, in this day and  
4 age it's hard to believe that you would be on the Board of  
5 Education thinking everything is hunky-dory.

6           MS. PAPADAKIS: Oh, there are ten other members of the  
7 same -- of the Board of Education who voted exactly as I did on  
8 exactly the same bill.

9           CHAIRMAN ROBERTI: I haven't had the chance to ask them  
10 what their reasons were.

11           MS. PAPADAKIS: David Romero was here last for  
12 reconfirmation, and he was our Board President at the time. And  
13 he was reconfirmed with absolutely no problem with the same -- he  
14 also could have answered this question, perhaps far better than  
15 I, because I believe that local flexibility and local control, I  
16 believe that local people -- I have trust in the local people. I  
17 do not believe that they out to deny students an education in  
18 this country.

19           I believe that we have bent over backwards, this nation  
20 has bent over backwards for people who are not even in our  
21 country, and that they wouldn't take care of our own? These  
22 children are in our country. They are ours.

23           I believe that they would educate them, and that they  
24 would educate them in the language that they could understand, or  
25 make it possible for them to learn.

26           CHAIRMAN ROBERTI: What were your other reasons for  
27 voting against Assembly 37, opposing it?  
28



1 MS. PAPADAKIS: There was a trigger of ten; ten students  
2 in a classroom. If you had ten students in a classroom, then you  
3 had to have a bilingual teacher; that that called for a bilingual  
4 teacher that spoke the same language. If you had ten students  
5 that spoke the same language, you had to have a bilingual  
6 teacher.

7 What does that do for students -- nine students? Or  
8 what does that do for eleven students? You know, it was an  
9 arbitrary rule.

10 CHAIRMAN ROBERTI: What would you have had instead, if  
11 anything?

12 MS. PAPADAKIS: Well, I would have allowed some  
13 flexibility at the local level so that they could staff and fill  
14 their classes according to the administrators so that they would  
15 have the freedom to fill their classes as they -- as it was  
16 feasible for them to do given the resources they had, given the  
17 staff they had, given the students they had, given the languages  
18 that they had to deal with.

19 CHAIRMAN ROBERTI: You would have left it totally to  
20 their discretion without guidelines as far as the number of  
21 students involved?

22 MS. PAPADAKIS: Well, what's the difference? If nine  
23 kids can get an education in one method, and ten kids can get an  
24 education in another method, what does it say for who is getting  
25 the better education? Who is to say? They're both in the same  
26 school. They're just not in the same classroom.

27  
28





1 I mean, the trigger of ten caused a great deal of  
2 problems to many, many administrators. That's what I heard. I  
3 am not an administrator. I have not administrated the program.  
4 I give you the information that has been given to me.

5 CHAIRMAN ROBERTI: Were there any other reasons for your  
6 opposition?

7 MS. PAPADAKIS: Parental consent; written parental  
8 consent, and the parents' involvement in the education of their  
9 students. We felt that every parent -- I mean, one of the  
10 reasons our education is not doing as well as it can is because  
11 we do not get enough parental support and parental involvement in  
12 the schools.

13 If a parent were involved in the education of his child,  
14 and the parent were to know that their child is being educated in  
15 Spanish, in English, in Chinese, in Vietnamese, and that is the  
16 choice of the parent, that is exactly -- they will support that  
17 program. And they will work hard to see that their child  
18 succeeds in that program.

19 And if there is an American parent that wants their  
20 child, that has a child that speaks English, and he wants that  
21 child to become bilingual and learn Spanish, or learn Chinese,  
22 because they see the future in being bilingual and the advantages  
23 of being bilingual, then they should say, "I want my child in a  
24 bilingual class so he can learn two languages," or "she can learn  
25 two languages at the same time." So that they'll get a head  
26 start on their language assessment -- on the language graduation  
27 requirement by the time they get to high school.

28



1 CHAIRMAN ROBERTI: Any other reasons?

2 MS. PAPADAKIS: No, that's it.

3 CHAIRMAN ROBERTI: Any other questions of Ms. Papadakis?  
4 Senator Craven and then Senator Mello.

5 SENATOR CRAVEN: Ms. Papadakis, I may have misunderstood  
6 something that you said, but based on your recent comment, or  
7 most recent comment, you said that if a parent would want to send  
8 their child so they could be educated in another language,  
9 presumably an English-speaking person.

10 Are you by that statement indicating that instruction is  
11 being conducted in two languages in the one classroom?

12 MS. PAPADAKIS: Yes, in some bilingual programs that is  
13 the case. In other bilingual programs, it is total Spanish  
14 immersion, or total Chinese immersion, and in other classes there  
15 is just total -- there is Spanish and then 20 minutes of English.  
16 There is, you know, all Spanish, and then 20 minutes of English.

17 SENATOR CRAVEN: But if my name is Gonzales, and I go to  
18 grammar school, and I go into a class wherein they are speaking  
19 Spanish, it has always been my thought that they speak Spanish  
20 only long enough to indicate to me the relevant English and move  
21 me in a transitional sense from Spanish to the English.

22 That's not right?

23 MS. PAPADAKIS: No. They have -- the AB 507 is a  
24 primary language instruction program. You teach the child in his  
25 primary language. If he comes in speaking Spanish, and you  
26 assess him as speaking Spanish, then he gets all of his  
27 instruction in Spanish. And if Spanish is a language spoken at  
28 home, he gets all his --





1           SENATOR CRAVEN: For how long a period of time?

2           MS. PAPADAKIS: For three years, until then we can  
3 change him -- assess him again and then see if he can function,  
4 get by, in an English-only class.

5           SENATOR CRAVEN: I see.

6           Is it possible that instruction of that sort could  
7 continue through, for example, eight grades of school?

8           MS. PAPADAKIS: It is possible.

9           We have bilingual programs that have gone to the 6th  
10 grade; you know, kindergarten to 6th grade. There are bilingual  
11 programs, some bilingual programs, in junior high and high  
12 school, depending on -- because we have students that come to us  
13 that are 12 years old, 13 years old, 15 years old, 17 years old.  
14 But they already have language acquisition skills; they already  
15 have, you know --

16          SENATOR CRAVEN: Yes.

17          Why do we use the term "bilingual" when we're using  
18 monolingual? You say they're taught in Spanish.

19          MS. PAPADAKIS: Better brains than mine would have to  
20 answer that one because I really don't know. It has been --

21          SENATOR CRAVEN: I don't think that's indicative of a  
22 better brain.

23          MS. PAPADAKIS: It is a misnomer to call the program --  
24 I mean, there is bilingual in the sense that it's transitional  
25 bilingual education.

26          SENATOR CRAVEN: Well, unfortunately, that's the concept  
27 I've had to these many years.  
28



1 I represent an area where they speak 62 different  
2 dialects, the same district, same area, same school district. It  
3 happens to be San Diego School District. And most of the  
4 dialects spoken are Asian dialects, and most of these people are  
5 Southeast Asians.

6 They move them from, you know, Hmong to English very  
7 rapidly.

8 MS. PAPADAKIS: Right away.

9 SENATOR CRAVEN: These are just little children. I  
10 mean, 1st and 2nd graders. And they've been very, very  
11 successful in that. And they don't keep teaching them, you know,  
12 the language of Saigon forever. They try to move them rapidly,  
13 one to another.

14 But you favor bilingual approach; is that correct?

15 MS. PAPADAKIS: If that's what the parents want, and if  
16 we have the teachers who can teach it, and if we have the  
17 students who want it, then why --

18 SENATOR CRAVEN: Do you think that the parents are the  
19 ones who should be the ones calling the shot on it, as opposed to  
20 the schools?

21 MS. PAPADAKIS: I think the parents -- that public  
22 education belongs to the public, that the parents have to be  
23 involved in public education or it's not going to work. Teachers  
24 can't do it all.

25 SENATOR CRAVEN: But, you know, some parent, who may be  
26 a great auto mechanic, may have a child in what we would call in  
27 a general sense a liberal arts high school, and say, "Well, I  
28 want him taught how to repair a carburetor."



1 Do you think we ought to do that?

2 MS. PAPADAKIS: Given the -- if the parent goes in front  
3 of the Board of Education and makes a big enough fight, and has  
4 enough support, yes, it can happen. Public schools belong --  
5 they are built by public monies and --

6 SENATOR CRAVEN: I don't think anybody here is going to  
7 quarrel with that. That's rather prima facie.

8 But somewhere along the line, the elected persons who,  
9 in effect, serve the governing board of the local school  
10 district, should have the option, I should think, to call the  
11 turn on what will be done.

12 MS. PAPADAKIS: Yes.

13 SENATOR CRAVEN: In keeping, of course, with existing  
14 law.

15 MS. PAPADAKIS: Right.

16 SENATOR CRAVEN: Does our law indicate that the people  
17 should make the indication, and how long their child will stay in  
18 a given language? Or is that a jurisdictional call locally?

19 MS. PAPADAKIS: No, the bill had very specific  
20 requirements and very specific criteria of how the child was  
21 going to get in or out of a bilingual program.

22 SENATOR CRAVEN: Is that the Moscone-Chacon bill?

23 MS. PAPADAKIS: The Moscone-Chacon bill.

24 SENATOR CRAVEN: That bill has to be quite some years  
25 old now. In fact, I never heard of that bill until you mentioned  
26 it today.

27  
28





1 MS. PAPADAKIS: Is that right? That was the original  
2 bilingual bill.

3 SENATOR CRAVEN: Yes, I see.

4 MS. PAPADAKIS: Yes, and AB 2813 and AB 37 proposed to  
5 extend that bill for another five years. And the Board of  
6 Education looked for one year at the bilingual program and  
7 thought that it needed some reforms. And even though these bills  
8 were amended, the amendments did not contain the reforms that we  
9 thought were necessary.

10 SENATOR CRAVEN: One other point; I just want a  
11 reiteration of it to see if I understood correctly.

12 Our Chairman asked you a question about the bilingual  
13 situation, and you responded, I think, that all of your  
14 colleagues on the Board --

15 MS. PAPADAKIS: Yes.

16 SENATOR CRAVEN: -- voted identically to your vote.

17 MS. PAPADAKIS: It was unanimous.

18 SENATOR CRAVEN: So in effect, your vote was not  
19 iconoclastic to any degree whatsoever; was it?

20 MS. PAPADAKIS: Pardon?

21 SENATOR CRAVEN: Well, you didn't break tradition or go  
22 off on a tangent?

23 MS. PAPADAKIS: No, I was in --

24 SENATOR CRAVEN: Concert with --

25 MS. PAPADAKIS: -- in concert with --

26 SENATOR CRAVEN: -- other Members of the Board.

27 MS. PAPADAKIS: -- with every Member of the Board.  
28



1 SENATOR CRAVEN: Thank you very much.

2 MS. PAPADAKIS: Thank you, Senator Craven.

3 CHAIRMAN ROBERTI: Senator Mello.

4 SENATOR MELLO: I want to start out by saying that I  
5 voted for your confirmation last time. What I see before me this  
6 time, there's opposition from 70 organizations and individuals.

7 I was impressed with your statement that you made four  
8 and a half years ago, and you read off a nice statement. But as  
9 I begin to take apart the words you say, I find some holes in it.

10 I want to point out here, first of all, our records show  
11 -- and I'll go through these very briefly with one sentence from  
12 each one -- from the Speaker Willie Brown:

13 "In general she has not supported  
14 education when it comes to the  
15 issue of fiscal support. This is  
16 demonstrated by her attitude towards  
17 educational funding and reform."

18 Californias United, from the Japanese American Citizen League:

19 "The nomination of Angie Papadakis  
20 is antithetical to the noble goals of  
21 this state."

22 MALDEF, which is a Mexican American Legal Defense group:

23 "We feel she does not represent  
24 the needs of the constituents of  
25 our state."

26 Los Angeles County Bilingual Directors Association:  
27  
28





1 "Her voting record as well as her  
2 consistent opposition to programs  
3 which service the language of minority  
4 students clearly indicates that she  
5 will not be an asset."

6 Asian Pacific American Coalition:

7 "We strongly oppose the confirmation  
8 of Ms. Papadakis."

9 The Chinese American Parents and Teachers Association of Southern  
10 California:

11 "Angie Papadakis has consistently  
12 shown her bias against the bilingual  
13 education program through her voting  
14 record and articles. Such evidence  
15 would show that she is close-minded  
16 and prejudiced against bilingual  
17 education."

18 Women, Family and Work Coalition, quote:

19 "One of the priority bills was AB 37,  
20 the bilingual extension measure.  
21 Because of her lobbying and activity  
22 against AB 37, we must oppose Ms.  
23 Papadakis' reappointment."

24 Comision Femenil Mexicana Nacional:

25 "Her efforts to block passage of  
26 bilingual education clearly makes  
27 her unqualified as a Member of the  
28 Board."



1 And then the Comision Femenil de Sacramento:

2 "It has come to our attention  
3 that she was involved in lobbying  
4 against the bilingual extension  
5 bill, with our Chapter actively  
6 supporting it because of its  
7 significance in the Hispanic  
8 community."

9 And then other organizations, including: the San Jose Mayor's  
10 Commission on Minority Affairs; LULAC; Fresno Chapter of Mexican  
11 American Educators; and then lots of individuals.

12 It just seems like your record in office has developed  
13 even greater opposition. You were controversial before, but I  
14 think you had not had a track record to go on. But now you've  
15 been on the Board, a lot of people are opposing your actions.

16 You also have letters of support by some 90 different --

17 MS. PAPADAKIS: Ninety?

18 SENATOR MELLO: That's what I have here, 90.

19 I think, you know, you can get 5,000 letters on each  
20 side, but what concerns me is, I think all of us can relate to  
21 different languages. My parents were immigrants. Senator  
22 Petris, Senator Roberti, many of us here, and we're proud to be  
23 here as Americans.

24 But the problem that I see is, you talk about individual  
25 things that you yourself have done, and I could state the same  
26 thing about our family. But what you have to look at is the  
27 millions of people in California who are under a different time,  
28



1 with a dropout rate of 40 percent, with a functional illiteracy  
2 of 20 percent among adults.

3 When the Japanese come here to sell us their products,  
4 they speak English. When we go there and sell them our products,  
5 we take an interpreter.

6 I think that what is happening in our schools, and what  
7 is happening in our society, is something that I just feel is  
8 wrong.

9 I would go back to the bilingual education program,  
10 which I think was AB 1329 as I recall it, by Chacon as the lead  
11 author on it back when it was passed. I think it was an  
12 imperfect bill, because it was very tough to implement it:  
13 requiring certification of teachers; limited English speaking and  
14 the non-English speaking.

15 But what do we have now? We've thrown the baby out with  
16 the bath water.

17 Senator Craven just asked you, and you stated the other  
18 ten Members of the Board of Education, did they go there and  
19 testify against AB 37 as you did?

20 MS. PAPADAKIS: No, they are not all members of the  
21 Legislative Committee. I am a member of the Legislative  
22 Committee. Our Chairman couldn't make it that day. I went and I  
23 testified because we took an opposed position on the bill.

24 SENATOR MELLO: But I think you're noted, and you're  
25 looked at as probably the single person on the Board that's taken  
26 this mission on.





1           And I have people in my district that feel the same way.  
2 I have 28 percent of my district are Hispanic; we have a large  
3 Asian, Filipino population, and so forth. And there's a lot of  
4 resentment from people, I think, that don't understand the needs  
5 of immigrants and people that are functionally illiterate needing  
6 help. I've had a lot of people come to me and say, "Let them  
7 speak English." And that's a statement made by a lot of people.

8           My father never went to school a single day in his life.  
9 When he came here, he couldn't speak a single word of English.  
10 Yet he never went on Welfare and never committed a crime, and he  
11 lived here until he was 93 years of age, and that's a success  
12 story that's shared by many people.

13           I think my role is to make sure that we provide programs  
14 for all Californians.

15           The other thing, Senator Craven, every single Member of  
16 the Board of Education now serving has been appointed by Governor  
17 Deukmejian. And I think the Governor's opposed because he vetoed  
18 the Speaker's bill.

19           You helped in getting that bill vetoed by your  
20 opposition to it.

21           And what we have now, we do not have an extension of  
22 bilingual education. Their funding --

23           MS. PAPADAKIS: We have the money. We have the money.

24           SENATOR MELLO: We have the money.

25           If you want to leave it up to local control, you see, we  
26 are a state. We are the 7th largest nation in the world, and we  
27 as a state should set the standards. If you left it up to local  
28 control, they would suspend a lot of things locally.



1 But I think it's up to us in the Legislature to make  
2 sure that we raise the standards.

3 In other words, if we gave each county road money, do  
4 you think we'd have an interstate freeway? I doubt it.

5 MS. PAPADAKIS: I'm not familiar with it.

6 SENATOR MELLO: And if we gave them just block grant  
7 monies to do things, we would have a lousy state. We have to set  
8 standards, but we have the local cities, counties, and school  
9 districts implement the standards that we set here in Sacramento.

10 So right now, because of your opposition and the  
11 Governor's opposition, we do not have an extension of the  
12 program. They're giving the money to the school districts. I  
13 don't know what they're doing.

14 We should have a study, or somebody ought to report to  
15 the Legislature to find out if bilingual education is being  
16 carried out. Because to me, I think it's really an awful lot to  
17 be desired.

18 You said, leave it up to the parents of the students and  
19 the --?

20 MS. PAPADAKIS: Local boards.

21 SENATOR MELLO: Yes, local boards.

22 How many parents or students would say, "I want to take  
23 algebra," or "I want to take geometry"?

24 MS. PAPADAKIS: You're right there.

25 SENATOR MELLO: I didn't want to take algebra myself.

26 But the point is, we must set standards for graduation  
27 from school, and set standards for people to build to.





1           When you say the bilingual education needed reforms, you  
2 know, that's a good way of saying it's imperfect, and therefore  
3 I'm against it.

4           I would rather see us extend the program. I wasn't  
5 completely happy with the original bill, because my goal in  
6 bilingual education is not to have them learn their native  
7 language more proficiently. It's to turn the corner and be  
8 proficient in English. That's what I'm willing to support.

9           But right now, with these thousands and millions of  
10 people in our classrooms that are going to be deprived of this  
11 opportunity, they're going to continue to speak a native language  
12 that they know without the ability to learn in English.

13          SENATOR CRAVEN: Henry, may I ask a question of you to  
14 clarify something in my mind?

15          SENATOR MELLO: Yes, go ahead.

16          SENATOR CRAVEN: It's my impression that in the last  
17 budget, the mandate which used to cover bilingual education was  
18 lifted. In other words, there was no mandate. And it became, I  
19 thought, an option or a judgmental call in a local district. If  
20 they chose to have it, they did so, and if they chose not to,  
21 they did not.

22          Is that correct?

23          SENATOR MELLO: That's correct.

24          SENATOR CRAVEN: You are somewhat indicating that  
25 because of there is no mandate, that people will just arbitrarily  
26 or, perhaps, capriciously say, "That's it. We'll spend it on  
27 something else."  
28



1           Don't you think that that sort of flies in the face of  
2 what has to be an obvious problem in a lot of urban districts,  
3 with people who do not speak English and need bilingual education  
4 so very, very much?

5           SENATOR MELLO: Let me correct two things.

6           They cannot spend it for anything else, as I understand  
7 the bill. The money is categorically directed toward bilingual.

8           So, I don't know. Since last July 1, when the new  
9 budget year started, I would like to know as a Legislator what  
10 has happened to bilingual around the state? I'm really concerned  
11 about it.

12           Having been a son of immigrant parents who really had  
13 functional problems -- my mother went through the third grade.  
14 She was more educated than my father -- but that's why, when I  
15 get before a class, I tell them to go to college and get a  
16 college degree, and then go on to get a master's degree and more.  
17 Because you can't hack it today without having an education.

18           And Senator Craven, you know, in areas that I represent,  
19 I know school districts that would just -- and I don't know what  
20 they're doing right now -- but they'd just as soon drop the  
21 program because it's too hard to get the teachers certified. She  
22 pointed out the class size. There's many problems with the  
23 program.

24           But I think a mistake was made. Instead of improving  
25 it, which we should have been able to do, we now have lost a  
26 program that had some imperfections.

27  
28



1           And I feel very bad that our society is not going to be  
2 moving from where we were in 1987. And right now it isn't so  
3 much the Hispanics or the Mexicans that are coming across the  
4 border. The largest ethnic group in Berkeley in the freshman  
5 class are Asians. Bilingual is not only for Hispanics and  
6 Mexicans. It covers a large group. In Sacramento there are 14  
7 classes of Portuguese bilingual classrooms.

8           But I think everybody ought to be given the opportunity.  
9 I mean, if we expect people to be good Americans, and be proud of  
10 our country, they must be able to be proficient in English. If  
11 you can't speak English -- before, I know what happened before.  
12 I've been in many classrooms. The kids were sitting there in the  
13 corner because the principals wanted to collect the ADA, the  
14 money, but they were just sitting there, allowing them to collect  
15 the money.

16           But when bilingual came along, they were no longer  
17 sitting there. They separated them into non-English and limited  
18 English. They were required to provide a teacher in their own  
19 native language, but the goal was to have them become proficient  
20 in English. And that is my goal.

21           That's what I think we are losing. You know, you've  
22 done yours. You've made it with your parents, and you've become  
23 high. And maybe I'm successful, I think, because I'm a  
24 Legislator, and others here are, too.

25           But what's going to happen to our society in the future?

26           MS. PAPADAKIS: That's what I'm concerned about.

27           SENATOR MELLO: But the way you come across as far as --  
28





1 MS. PAPADAKIS: I have --

2 SENATOR MELLO: It's just not perfect enough for you, so  
3 you're willing not to tolerate the imperfections of bilingual  
4 education and throw the whole thing out. And right now we have  
5 this local control that --

6 MS. PAPADAKIS: No, but I never advocated the  
7 dismantling of the bilingual program. I never did once say at  
8 any time, in five and a half years, that I was against it. I  
9 wrote only one article, and that was for the L.A. Times, and I  
10 have copies of the article.

11 You show me where I said that the program should be  
12 dismantled.

13 I only pointed out some of the things that could be  
14 corrected, could be reformed in the program. I said that the  
15 program needed reform, and I have copies of the article that I'd  
16 be happy to leave you.

17 SENATOR MELLO: We have, too.

18 I really think what makes our country so great compared  
19 to all the other countries that are of a single ethnic  
20 nationality is, we are made up of all these different ethnic  
21 groups, all working together and pulling together. That makes  
22 our country great.

23 Let's give everyone a chance to be part of the whole  
24 system.

25 MS. PAPADAKIS: Let me tell you what's happening right  
26 now in the absence of a bilingual program.

27

28



1           The State Department of Education has worked hard to put  
2 out an advisory that they passed by the State Board of Education  
3 for approval, and we approved the advisory. And it has gone out  
4 to all districts. And they are to maintain their bilingual  
5 program intact, yes.

6           SENATOR MELLO: Let me ask you on that, what does an  
7 advisory mean compared to a mandate of the Legislature?

8           MS. PAPADAKIS: If they -- I didn't write the advisory.  
9 The State Board [sic] of Education wrote it. But I mean, that is  
10 what -- well, something has to happen. You're asking what has  
11 happened in --

12          SENATOR MELLO: You say we sent out an advisory. What  
13 does that mandate them to do by law?

14          MS. PAPADAKIS: It doesn't -- it does not have the  
15 impact of the law.

16          SENATOR MELLO: Doesn't have the force of the law.

17          MS. PAPADAKIS: No, it is still being questioned in the  
18 Attorney General's Office. You are absolutely correct.

19          SENATOR MELLO: What happened when the bill terminated,  
20 there's no longer a mandate for bilingual education.

21          MS. PAPADAKIS: But I cannot take full responsibility  
22 for the termination of the bill. I cannot. I cannot take --

23          SENATOR MELLO: That was done by us. We put a sunset on  
24 it.

25          The Speaker's bill was to extend the program for five  
26 additional years, and that's what you lobbied against. You did  
27 not want to see it go further into the future.  
28





1 MS. PAPADAKIS: I asked -- that was my source of  
2 information at the time, and that's what I did lobby against;  
3 that's what I spoke against. And I also have a copy of what I  
4 said at that hearing to clarify what I said.

5 I have been misrepresented by the Hispanic community,  
6 that sent out a bulletin calling me: vindictive, flagrantly  
7 opposed to bilingual education. I mean, incompetent.

8 SENATOR MELLO: What about the Japanese community?

9 MS. PAPADAKIS: I have no -- I have never -- these  
10 people have never monitored -- never spoken to me; have never  
11 monitored any of the meetings; have never said anything to me.

12 CSEA is at all the meetings. CASBA, California  
13 Association of School Board Administrators, is at all of the  
14 meetings. The PTA is at all of the meetings. The CSBA has  
15 representatives that monitor all of the meetings. Certain  
16 districts have representatives that come; they're called "Board  
17 watchers" because they sit and watch and listen to what the Board  
18 does.

19 None of them have found fault with anything I have said.  
20 None of them have sent letters of protest. And they're at every  
21 meeting.

22 SENATOR MELLO: That's right, but there's 4.4 million  
23 children in our K-12 that are out there struggling, trying to get  
24 an education.

25 See, the other thing, and I spoke about it in our caucus  
26 the other day, I'm frustrated about where California's going in  
27 education. We haven't gotten any leadership from the Governor or  
28



1 the Board of Education. In fact, and I take the blame myself, we  
2 in the Legislature haven't provided any leadership either. We  
3 are 49th in our funding for education, and we are 50th in class  
4 size. We're right down with those great states of Mississippi as  
5 far as what we're doing for education.

6 MS. PAPADAKIS: That's why I devoted so much of the last  
7 five years of my time, my talent if I have any, and my energy, to  
8 try and make things better.

9 If I have not done that, I'm sorry if you feel that I  
10 have made things worse.

11 SENATOR MELLO: Your message is not getting across.

12 MS. PAPADAKIS: Obviously it's not, but someone is  
13 putting out messages that are saying that I am flagrant,  
14 vindictive, and all these other things. I am not.

15 SENATOR MELLO: There are letters in our file. These  
16 are just sentences from letters that I read. I don't want to  
17 read the whole letter.

18 MS. PAPADAKIS: Well, I would wish you would read some  
19 of the 90 organizations that support me and see what they have to  
20 say about me.

21 SENATOR MELLO: I've gone over the list also.

22 But like I said, I started off by saying I voted for you  
23 last time, and there was some controversy about you, but you did  
24 not have a track record.

25 You now have a track record, and you have a lot of  
26 controversy, a lot of opposition against your actions through the  
27 last four and a half years from the groups that are listed here  
28 in our files.



1 MS. PAPADAKIS: Well, the Board records are public  
2 records. You can subpoena every one of our Board minutes and all  
3 of our Board tapes. And if you can find anything that I've said,  
4 hang me.

5 CHAIRMAN ROBERTI: Nobody wants to do that. We're just  
6 trying to decide whether we're going to vote for you or not.

7 Senator Ellis.

8 SENATOR ELLIS: I was just going through the other side  
9 of the question here and reading the letters of the people in  
10 support.

11 And that which my good friend and colleague points out  
12 in opposition, I think, is overwhelmingly refuted by people who  
13 are speaking in support. I'll just briefly go down the list:  
14 California Federation of Teachers, "We have no objection," and  
15 the letter which is enclosed is much more detailed on why they  
16 support Angie Papadakis.

17 Lieutenant Governor Leo McCarthy; Congressman Glenn  
18 Anderson:

19 "We know her to be an individual  
20 of utmost integrity."

21 California School Boards Association:

22 "She has been an asset to the Board  
23 and we look forward to her serving  
24 again."

25 But the letter here was much more detailed and lengthy and  
26 complimentary.

27 San Pedro Chamber of Commerce:  
28





1 "Her numerous charitable and  
2 civic activities are well-known,  
3 and she has an intense interest  
4 in education for children."

5  
6 Sheriff Sherman Block of Los Angeles:

7 "I've found her to be a person  
8 of high integrity with strong  
9 moral values and impeccable  
10 character."

11 Joan Flores, the City Councilwoman of Los Angeles:

12 "We're fortunate to have someone  
13 like her in government."

14 John Ferraro, a Los Angeles City Councilman:

15 "She's always shown a keen and  
16 vital interest in the quality of  
17 life, not only in her community  
18 but as it relates to such important  
19 issues as the education of our  
20 children."

21 Mary Reed, Ph.D. in Education, Director of Educational Media,  
22 Sacramento County Office of Education:

23 "She supports quality bilingual  
24 education and other curricular  
25 programs which provide instruction  
26 by qualified professionals."

27 United Way Director; a judge; a Superior Court Judge:  
28



1 "She has demonstrated staunch support  
2 of public education. Manifests a  
3 genuine interest and concern in  
4 advancement of the educational ob-  
5 jectives of all children."

6 All children.

7 Judge Ferkich, basically the same. President of the  
8 Board of Education; California Association of School Health  
9 Educators; Member, Board of Education Fresno; Los Angeles  
10 Educational Partnership. On and on and on and on.

11 That's just a handful of something over a hundred, as I  
12 recall, of prominent people, not only in education but in law, in  
13 all aspects of our society.

14 And Senator Craven is stepping out, and I would like to  
15 move confirmation.

16 CHAIRMAN ROBERTI: Senator Ellis moves confirmation.

17 We'll put the motion to a vote after we hear everybody.

18 Senator Petris.

19 SENATOR PETRIS: I assume there are people in the  
20 audience, so I don't want to take a lot of time. The people here  
21 are going to testify for a long amount of time.

22 CHAIRMAN ROBERTI: I'm sure there's testimony on both  
23 sides.

24 SENATOR PETRIS: You can tell this is a very hot issue,  
25 and very fundamental and important, and we're all getting into  
26 it.





1 Senator Mello mentioned he's supported you last time. I  
2 not only did that, as I recall, I made the motion both times, the  
3 last two times.

4 Like others, I've been bombarded by statements,  
5 comments, letters, and so forth, and I want you to have an  
6 opportunity to answer these things.

7 Complaints that have been made, some of them have been  
8 covered, so I want to try to limit it. I want to start with  
9 bilingual. I think that's been covered pretty well, but I want  
10 to go on to other things.

11 Let me being with, there have been enough quotations  
12 from different utterances of yours to lead to the conclusions  
13 you've heard. I mean, people think you're absolutely opposed to  
14 bilingual, no matter what you say.

15 MS. PAPADAKIS: You're right.

16 SENATOR PETRIS: The Speaker, for example, is convinced  
17 you're opposed. The Chairman of our Education Committee is  
18 convinced. He says that after you assured us at the last  
19 hearing, your prior confirmation, that you were in support of  
20 bilingual, you went out and campaigned against it.

21 Now, the minutes of the meeting were mentioned. I  
22 happen to have the minutes of one meeting, and I want you to  
23 comment on this statement. This is August 12 of last year --  
24 excuse me, of '86, 1986. It was a discussion by the Board on the  
25 bilingual program, and specifically parts of it are on AB 2813.  
26 Mr. Ward had recommended an oppose position unless it's amended.  
27 That could also mean support if amended, I guess. At any rate,  
28



1 he made some comments, and then the part relating to you that I  
2 want you to comment on says that you agreed with certain  
3 statements he made:

4 "Ms. Papadakis stating she was  
5 appalled that bilingual education  
6 was included with a group of other  
7 very worthwhile programs, such as  
8 reading, school improvement, Indian  
9 education. 'It negates everything  
10 the Board has tried to do for the  
11 past year.' She feels that if the  
12 public were aware that bilingual  
13 education would go on as it has been  
14 for the next five years, there'd be  
15 an uproar."

16 Now, that needs clarification. What is it that's  
17 appalling? Mixing a lot of things together, or putting a  
18 worthless program with worthwhile programs?

19 MS. PAPADAKIS: No.

20 SENATOR PETRIS: Do you recall that?

21 MS. PAPADAKIS: I recall that.

22 SENATOR PETRIS: Now, that to me looks like an  
23 anti-bilingual thing. It's as if you're saying, "What are you  
24 doing putting this terrible program in with these good ones?"

25 MS. PAPADAKIS: No.

26 SENATOR PETRIS: That's the impression I get.  
27  
28



1 MS. PAPADAKIS: No, I'm so sorry if that's the  
2 impression you got.

3 Each program has a constituency. Each program has a  
4 group that supports it, and that is why there are five programs  
5 that were put together to bolster one program that needed to be  
6 looked at individually, the bilingual program in itself. The  
7 other programs we had no problem going forward. We had no  
8 problem with the GATE program, the Miller-Unruh program, and a  
9 number of other categorical programs.

10 But the bilingual needed to be looked at individually,  
11 by itself, so that we could see what was wrong, what we could do  
12 to change it. And coupling it with all the other programs, it  
13 made it very difficult to make changes in the bilingual program.

14 SENATOR PETRIS: Now, one of the areas of controversy is  
15 that in these discussions on the Board, a position was taken, and  
16 then you appeared before the Board. It's been stated that you  
17 didn't make clear to the legislative committee, as a Member of  
18 the Board of Education, that the Board had said, "We'll support  
19 this bill if you put in these amendments." Or, "We oppose it  
20 unless it's amended."

21 Now, I'm sure you recall your testimony. Can you  
22 clarify that for us?

23 MS. PAPADAKIS: Would you like me to read the testimony?

24 SENATOR PETRIS: Well, not the whole thing, but on that  
25 particular point, yes.

26 MS. PAPADAKIS: I said that:  
27  
28





1 "... it does not reflect the reforms  
2 the State Board of Education itemized  
3 in its position paper on the Education  
4 of Limited English Proficient students.  
5 To extend it in its present form without  
6 taking into account the shortage of  
7 bilingual bicultural certificated teachers  
8 is mandating failure."

9 No, I told them that I was a member of the Legislative  
10 Committee of the State Board of Education. I guess I did not  
11 make clear that we would support the bill if it was amended. I  
12 guess I did not make that clear.

13 SENATOR PETRIS: Well, that's probably what they're  
14 driving at.

15 Now, let me ask you, on the shortage of certified  
16 teachers, which is one of your concerns, what are you doing?  
17 What is the Board doing to correct that?

18 You mentioned bringing people from Spain and all that.  
19 I want to know, number one, what's happening now, over the past  
20 year? And number two, what will be done this coming year to  
21 correct that?

22 MS. PAPADAKIS: Well, first I want to tell you that the  
23 Board meets only once a month; once a month. So, that's about  
24 the extent -- and then they also do not meet -- so actually we  
25 only meet eleven months out of the year. We don't meet in  
26 August.



1 But we do have a Superintendent who is very concerned  
2 about education, and that is a full-time job with him. He and  
3 his Department took the initiative and did go to Spain and  
4 recruited -- I don't know -- 80 teachers, or something, and  
5 brought them here to help, try to help fill the void, you know,  
6 of bilingual teachers.

7 I think that's not the answer. I cannot believe that  
8 importing teachers from different nations, who are going to teach  
9 our children the American way of life, this is not the way of  
10 doing it, you know. We want teachers who are here. We want  
11 Hispanic role models to be teaching Hispanic children. We want  
12 Chinese role models to be teaching Chinese children. We want our  
13 society to go forward as American, as American society.

14 SENATOR PETRIS: Are you contending that after all the  
15 recruitment efforts, there aren't any available?

16 MS. PAPADAKIS: There aren't any. We don't have any.

17 The number of minority students who are going into the  
18 teaching profession is lamentably small. And what we need to do  
19 is make it more desirable for them to become teachers.

20 And I think the one way to do that is not just by money,  
21 but by getting some respect for the teaching profession back. I  
22 told Felice, I was in San Antonio, Texas, and I was speaking, and  
23 they have billboards. I ran across three billboards that were in  
24 San Antonio that said, "Teachers, Thanks Teachers. You're Texas  
25 Treasures."

26 Now, we've got to get that kind of respect going for the  
27 teaching profession, and for our schools, and for education, and  
28 then we'll get the support.





1 CHAIRMAN ROBERTI: I can't help but interject.

2 Our society is not too much different than other  
3 societies, in that people are respected in terms of the rewards  
4 that they receive.

5 MS. PAPADAKIS: That's true.

6 CHAIRMAN ROBERTI: That's unfortunate sometimes, but  
7 it's true. Money is one of them.

8 MS. PAPADAKIS: I know.

9 CHAIRMAN ROBERTI: Then you can throw in power, or fame,  
10 and all these venial things that keep people going, but --

11 MS. PAPADAKIS: Money.

12 CHAIRMAN ROBERTI: -- money is very important.

13 MS. PAPADAKIS: Absolutely.

14 CHAIRMAN ROBERTI: And as long as the teaching  
15 profession is so underpaid, they're not going to get the respect.

16 MS. PAPADAKIS: But there are still, Senator Roberti, I  
17 agree with you, but there -- because we've lost some of our best  
18 teachers to industry because industry has paid them more to be in  
19 industry than we have been able to pay them in education.

20 But there are other teachers who would teach no matter  
21 what. To be volunteers, they would be volunteer teachers,  
22 because they are dedicated people. They're truly dedicated, and  
23 they really care.

24 SENATOR PETRIS: Well, I don't think we can staff our  
25 schools with them because there just aren't enough.

26 MS. PAPADAKIS: No, no, I realize that. But I mean  
27 there are teachers who are not really in it for the money.  
28



1           SENATOR PETRIS: Shouldn't the Board be making a real  
2 strong effort to work on that part of the problem, of raising the  
3 pay for teachers throughout this state and providing more money  
4 in the budget?

5           MS. PAPADAKIS: I think we did that. We did that in  
6 support -- certainly did that in our support of SB 813. We  
7 certainly have never looked at downgrading. We've always  
8 upgraded. But we want more money for teachers.

9           I think I can only speak for myself; I cannot speak for  
10 every Member of the Board because I haven't polled them on it,  
11 but I'm positive that my colleagues would want that.

12          SENATOR PETRIS: Do you have access to the Governor's  
13 Office on these issues, or to Dr. Mehas?

14          MS. PAPADAKIS: I do talk to Peter Mehas. I do not --

15          SENATOR PETRIS: Do you recommend more money for  
16 teachers?

17          MS. PAPADAKIS: I will. I certainly -- if I haven't  
18 made it a priority item, I certainly --

19          SENATOR PETRIS: Shouldn't it be a priority item?

20          MS. PAPADAKIS: I will make it a priority item.

21          SENATOR PETRIS: Aren't we prey to the slogan that you  
22 can't solve problems by throwing money at them? Somebody tossed  
23 that outworn phrase out so people would stop talking in terms of  
24 money.

25          But as Senator Roberti points out, and let me tell you,  
26 I was watching a program yesterday. I wasn't watching it, but I  
27 happened to pass through a room where it was being watched,  
28



1 because I was on an urgent thing to answer the phone. There's  
2 this lovely lady who spends a half hour per week, I guess it is,  
3 turning big blocks with letters on them in a puzzle game. That's  
4 the extent of her contribution to our society. She gets a  
5 million bucks a year.

6 MS. PAPADAKIS: You're talking about Vanna White.

7 SENATOR PETRIS: Yes.

8 MS. PAPADAKIS: She has a great PR man.

9 SENATOR PETRIS: I have nothing against her, but that's  
10 a million bucks a year.

11 What does that tell you about our society?

12 MS. PAPADAKIS: It makes --

13 SENATOR PETRIS: That's the old hackneyed phrase, "Well,  
14 let the market take care of it."

15 MS. PAPADAKIS: It makes me sick.

16 SENATOR PETRIS: There's a market for that.

17 MS. PAPADAKIS: I know.

18 SENATOR PETRIS: There's no market for teachers --

19 MS. PAPADAKIS: I know.

20 SENATOR PETRIS: -- because there aren't any  
21 inducements.

22 We go to sleep, and we listen to that pap all these  
23 years coming from the President on down, you know, "The  
24 government should get out of it; let the market take care of it.  
25 Cut taxes. The public officials are wasting our money, from the  
26 school board on up." And that's why you don't get enough money  
27 for teachers.  
28





1           That's why I would implore the entire Board to just push  
2 and push and push. And I'm not saying you just automatically  
3 give a lot of money and not set standards, and not monitor, and  
4 not test. We provided the mechanism for that in the Legislature.  
5 Teachers have to take tests now, you know. They rebelled against  
6 that, but we all supported it. It went through with overwhelming  
7 majority.

8           Well, on bilingual, there's just one or two other brief  
9 things, and then I'd like to go on to something else.

10           There is a letter to the editor here, one of these,  
11 relating to the Eastman School in L.A. Since you're down in that  
12 general county and vicinity, you might know about it.

13           That letter claims that youngsters who start out in the  
14 lower grade, kindergarten, speaking only Spanish and being taught  
15 in Spanish reach a certain level, and they claim in the letter --  
16 he claims; he's the author -- that when they're tested three  
17 years later, and I believe in the 6th grade as well, they do  
18 better in English than the average student who doesn't have a  
19 foreign language problem. And that is not a fluke. They cite  
20 other districts in California and other districts around the  
21 country.

22           That seems to fly in the face of the type of criticism  
23 that you've been making of the bilingual program. I think your  
24 contention has been: it really doesn't work. It can't work the  
25 way they're doing it. You're saying, "I want bilingual to work,  
26 but it's not working the way they're doing it."

27  
28



1 And yet you have these examples. Are they isolated  
2 examples? Is there some other explanation? Are the only well-  
3 qualified teachers concentrated in those particular districts?

4 What's the answer?

5 MS. PAPADAKIS: Well, there are districts who have a  
6 whole cadre of qualified teachers who are running excellent  
7 programs and doing an outstanding job, because I have witnessed  
8 them. And there are other districts that are struggling very  
9 hard to just keep one teacher in school, trying to learn the  
10 language of her students, because other districts right next door  
11 hijacked their teachers by offering more money, and they get the  
12 bilingual teachers in their district. And this district over  
13 here is a little poor, doesn't have as much money, and is not  
14 getting the job done for these kids.

15 Now, the Eastman program, I think, is an outstanding  
16 program. But there's another program being run also in the Los  
17 Angeles Unified School District, in Region G, that was put out by  
18 Dr. Charlette Crabtree, a UCLA professor, very respected and  
19 everything. And they're Hispanic children who are being taught  
20 in English in all academic subjects and doing outstanding work.

21 So, for every study, and for every example, there's  
22 another example that also shows that it can work in a different  
23 manner. One cookie cutter is not going to cut it for every  
24 student in California. It's just not going to make it. It might  
25 make it for one particular district, but it can't do it for all  
26 districts.





1 And I really think that every district has the wisdom,  
2 and the personnel, and the talent to decide what to do best with  
3 the problem that they are faced with. And I really trust the  
4 American people.

5 If these boards are all elected, and it's just as I am  
6 up here, if I am not doing a good job, I should not be working  
7 here. I should not be doing this job. If the school boards are  
8 not doing a good job, they should be pulled out. They should not  
9 be allowed -- elected and re-elected. They're all elected.

10 SENATOR PETRIS: We all agree to that.

11 MS. PAPADAKIS: I'm the only one that's appointed.

12 And you want to talk about pay, let me just tell you  
13 about the School Board. We get -- for four years, it was \$50 a  
14 meeting, and we start at 8:00 o'clock in the morning and  
15 sometimes go to 5-6:00 o'clock at night, and we maybe rush for  
16 half an hour and grab a sandwich at noon. We didn't have a  
17 union. And we worked. It was -- we really hustled to get the  
18 work of the State done in a day and a half.

19 Now there is a \$100 stipend, you know, for the Board.  
20 It's not as though the State Board of Education, and we have --  
21 we have three secretaries -- we had three secretaries on the  
22 Board and one Executive Director. And we asked to keep this one  
23 secretary, and the only way we could keep her was if she got a  
24 raise. We can't get a raise for her because she doesn't have a  
25 certain job classification. We're going to lose our whole memory  
26 bank on the State Board of Education. No money.

27 SENATOR PETRIS: Why can't you get the money?  
28



1 MS. PAPADAKIS: Because we were a line item in  
2 Superintendent Honig's budget. That's why we can't get the  
3 money.

4 SENATOR PETRIS: Who's master of the budget in this  
5 State? Who's the last word?

6 MS. PAPADAKIS: The last word on the budget, and we will  
7 talk to the Governor.

8 SENATOR PETRIS: Okay, I've got to keep reminding you,  
9 because that's where it is.

10 MS. PAPADAKIS: Uh-huh, that's where it is.

11 CHAIRMAN ROBERTI: Senator Petris, if I can just  
12 interrupt you.

13 SENATOR PETRIS: Yes.

14 CHAIRMAN ROBERTI: I do not think we're going to have  
15 the time, in view of the fact that the Governor's State of the  
16 State message is today as well, to do much more than Ms.  
17 Papadakis.

18 SENATOR MELLO: Mr. Chairman, may I ask in that regard,  
19 because there is a lot of questions that were brought up here  
20 today, I checked with Nancy Michel, who's back here. I was going  
21 to ask the Rules Committee if we could put her over for one week.

22 I would like to check with LULAC; there's an Early  
23 Outreach group in the University of California, Santa Cruz;  
24 MALDEF; and people from the Asian community to get an update from  
25 them. And then have her back next Wednesday, the 13th, and I  
26 think her date is up on the 15th of January. We'll be in session  
27 on the 14th and the 15th. That way, she could be on the Floor  
28



1 either the 14th or the 15th. I would not want to hold her up in  
2 any way.

3 SENATOR CRAVEN: Henry, are those people that you just  
4 mentioned, presumably they're objectors at this time; aren't  
5 they?

6 SENATOR MELLO: Well, they are, but I'd like to be able  
7 to invite them to see whether or not they're firm, hard-firm. My  
8 district is 28 percent Hispanic, almost one out of three, and  
9 some of my cities are 60 and 70 percent.

10 SENATOR CRAVEN: Well, you know, I don't mean to indict  
11 or condemn anyone, but it's been my experience that a lot of  
12 these people who belong to ethnic organizations, somewhere along  
13 the line someone planted a seed and said, "This is bad." Then  
14 they all go out painting placards saying it's very, very bad.  
15 And they are goaded into that by a lot of people, at times some  
16 of the clerics, as we have been here parading around the Capitol.

17 I don't know that seeing them or talking to them is  
18 going to change them one iota. I have a feeling, with all due  
19 regard to those people, they they may not know or understand some  
20 of the nuances which this lady has brought to the job and which  
21 she utilizes in her thought processes.

22 This woman has been, you know, out with and among them  
23 since she was 18 years old, making her way very, very  
24 successfully. I think she has, you know, had the courage to go  
25 out and say those things that she feels. A lot of these people,  
26 there's been some reference made to the Speaker -- I think you  
27 did -- and his attitude and so forth.

28





1 Well, with all due regard to the Speaker, he is not, in  
2 my judgment, a sine qua non of anything, education included. He  
3 is entitled to his opinions. He's a very learned man, but that  
4 is not to say that he knows all of the ins and outs of the area  
5 in which Ms. Papadakis has had to engage and work, and to beat  
6 back some of the comments.

7 But one of the things she said is, strangely, all of  
8 these people who now surface like Narcissus in the spring, where  
9 were they during the course of her service over five and a half  
10 years? They didn't come to her and say, "Angie, we think you're  
11 dead wrong," or anything anywhere comparable to that.

12 And absent that, the lady has to have the feeling that  
13 "I must be doing a pretty good job."

14 You know, I guess if anything, we have to look upon her  
15 as a liberal. That may shock you, but that's basically what  
16 she's been, because if she were a conservative, she wouldn't want  
17 to change anything. That's normally the way conservatives  
18 operate; they're more status quo. Liberals are more  
19 free-thinkers, and God bless them, if we didn't have liberals,  
20 we'd never have change.

21 So, she, I think, has had a tendency to try to speak her  
22 mind and say, "There's something that I think can be improved in  
23 these programs," and she's had the courage to go out and say it.  
24 And I think that's very, very important.

25 SENATOR MELLO: Senator Craven, in addition to talking  
26 to these groups, I do want to take a look at part of the L.A.  
27 Unified School District, where some schools have 100 percent  
28



1 Hispanic enrollment. I just want to see what my school districts  
2 are doing since July 1 with the bilingual program since it's not  
3 longer mandated. I know some of them are carrying on, but I want  
4 to see to what extent.

5 As far as I'm concerned, I think if we're giving them  
6 the money, and there is a need out there, something ought to be  
7 happening.

8 SENATOR CRAVEN: Yes.

9 SENATOR MELLO: As she points out, if you want to leave  
10 it up to the kids, I think if they left it up to me whether to go  
11 to school or not, I probably wouldn't go to school.

12 SENATOR CRAVEN: Well, I think we all fall into that  
13 category.

14 I think that that has some meaning, but, you know, I  
15 think that really we get down to dealing with that most fragile  
16 thing: human personality. And it really the personality, and  
17 the real heart, and the conscience of the people who serve on the  
18 school board who make that judgment. And if you've got a board  
19 -- and I won't even use the term that characterizes them, but  
20 it's recognizable from the rear of their anatomy -- if they are  
21 of that ilk, they're probably going to say, "No, forget it."

22 But if they're really thoughtful people with a  
23 conscience, I think they're going to retain what we've  
24 established.

25 SENATOR PETRIS: Mr. Chairman.

26 CHAIRMAN ROBERTI: Senator Petris.  
27  
28





1           SENATOR PETRIS: I think Senator Mello's request is a  
2 good one and a fair one, but I do want to ask a couple more  
3 questions, however.

4           CHAIRMAN ROBERTI: Let me reiterate.

5           The Governor's State of the State is going to be at  
6 4:45.

7           SENATOR PETRIS: Yes, I had forgotten about that.

8                           (Laughter.)

9           CHAIRMAN ROBERTI: We have to reassemble at 4:45, and  
10 we're going to need a few minutes -- Senator Mello says to put on  
11 makeup -- but I have to go over what I'm going to say.

12           So, I don't know how we're going to cover --

13           SENATOR PETRIS: Well, obviously we're not.

14           CHAIRMAN ROBERTI: -- anything other than Ms. Papadakis.

15           Now, everybody's welcome to listen to the Papadakis  
16 hearing, but I know there are others here, and I don't want them  
17 to think there is another agenda as to why we're not taking up  
18 their confirmation. There isn't. We're just strapped for time.

19           SENATOR CRAVEN: Mr. President --

20           CHAIRMAN ROBERTI: Or other interest items.

21           SENATOR CRAVEN: I get the impression that, based on  
22 what Senator Mello has said, and perhaps Senator Petris has some  
23 other areas that deserve comment, I get the impression that what  
24 we're going to do is hold over Ms. Papadakis.

25           If you so decide, Ms. Ruiz is here, you know. Nothing  
26 so terribly severe has befallen us during her reign in office.  
27 It shouldn't take too long.  
28



1 CHAIRMAN ROBERTI: I don't know how long her nomination  
2 will take, and we may be midway between the two of them. There  
3 are a number of people here to want to testify on both sides of  
4 the Papadakis thing.

5 SENATOR CRAVEN: I see.

6 CHAIRMAN ROBERTI: And that means to start up both  
7 Papadakis and Ruiz, neither of which conceivably would be  
8 completed.

9 Does anybody have a better solution?

10 SENATOR PETRIS: I need about six minutes. It isn't  
11 thorough; it's just up to a certain point.

12 I just want to read quickly this letter from Mr. Fred  
13 Huntington of Hawthorne. I don't know who he is. It's in a  
14 newspaper.

15 But just to be more specific on the Eastman School, in  
16 case you want to make comparisons, by the time, it is said, these  
17 predominately Spanish-speaking population students are taught  
18 almost totally in their native language and then are transitioned  
19 gradually to English in third grade, which you mentioned, now it  
20 says that:

21 "By the time those students get in  
22 the 6th grade, they not only learn  
23 more, but according to results of  
24 standardized tests, actually do better  
25 in English than their English-speaking  
26 counterparts. There is hard data  
27 available from several other schools  
28



1           in the country to prove that this  
2           is not a fluke."

3 And then another article that names those other districts within  
4 California.

5           Now, let me move on to one other issue, and I'll make it  
6 very brief, continue it.

7           On the AIDS education, which is another very hot issue  
8 up here, AIDS controversy --

9           MS. PAPADAKIS: Yes.

10          SENATOR PETRIS: That was Senator Hart's bill, 36.

11          MS. PAPADAKIS: Yes.

12          SENATOR PETRIS: SB 136. The problem that I have there  
13 is leveled against the entire Board.

14          Senator Hart contends that the Board had a meeting on  
15 this bill.

16          MS. PAPADAKIS: Yes.

17          SENATOR PETRIS: He was not invited to come in and  
18 present his side of the story.

19          Mr. Wyman came in, a rival Assemblyman, who had  
20 different legislation, I guess, or just didn't like the Hart  
21 bill. And Wyman made some very serious misstatements to the  
22 Board that were swallowed hook, line, and sinker and were not  
23 checked out.

24          Now, if I were sitting on a public board and a Member of  
25 the Legislature came to me and told me this and that, I'd believe  
26 it, you know. You like to believe a Legislator, but sometimes he  
27 gets carried away.  
28





1 It seemed to indicate in that incident that none of this  
2 information, most of which was in the bill itself, could have  
3 been checked out. The first part was not in the bill. Mr. Wyman  
4 contended that virtually every member of the Republican Party  
5 voted against SB 136.

6 The facts are that in the Senate, 9 Republican Senators  
7 voted "aye". When you consider there's only 15 on the Floor at  
8 that time, I mean Members at that time, that's a majority. And  
9 four Republican Senator voted "no," so it was 9-4. Five Assembly  
10 Republicans voted "aye," and 27 voted "no". That's a smaller  
11 ratio.

12 Now, the second point, and there again, I can see you  
13 wouldn't go run and check the voting record. You'd take the  
14 person's word for it.

15 But the second point is more serious. It says, and this  
16 is quoting Wyman right out of the transcript:

17 "Unfortunately, Senate Bill 136  
18 breaks all tradition in this area  
19 and says that the film will be  
20 shown to all students in the absence  
21 of a statement from the parents that  
22 they will not allow their child to  
23 participate.

24 "The traditional way in which sex  
25 education programs are conducted in  
26 schools in this state is an affirmative  
27 parental consent requirement, where a  
28



1 notice goes out, the parents sign, and  
2 the children that participate are those  
3 whose slips have been returned.

4 "This is a first. This is a first.  
5 In SB 136, where you do not have parental  
6 consent in the affirmative sense, I think  
7 that's terrible precedent."

8 Now, if you read the statute, if you read the bill,  
9 that's not what it provides.

10 And Senator Hart goes on to say that Mr. Wyman is dead  
11 wrong. The parental consent provision in SB 136 is identical to  
12 existing parental consent statutory provisions.

13 So, I have two questions. Why wouldn't the Board or its  
14 staff have read the bill and been able to refute that a person is  
15 telling them, even though he happens to be a Member of the  
16 Legislature? If he's wrong, he's wrong.

17 And secondly, if there was going to be that kind of  
18 discussion, why wouldn't the author be invited to come in say,  
19 "Well, this is what the bill provides; this is what I'd like you  
20 to do."

21 Now, the criticism with respect to you in that situation  
22 was that you picked up on that. Maybe you agreed with him, and  
23 in your enthusiasm you, you know, you expressed yourself. But in  
24 that meeting, which was September 3rd, you said:

25 "The affirmative consent of the  
26 parent, I think, is that -- Assembly-  
27 man Wyman, I think that is very  
28





1 important because this means that  
2 only if a parent is aware and knows  
3 and will get a child, and the child  
4 tells the parent that, 'Hey, I'm in  
5 an AIDS education class. I saw an  
6 AIDS video.' Then when does the  
7 parent take him out of it? After he  
8 sees it?"

9 These are your questions.

10 "Whereas, if the parent is notified  
11 beforehand, and says, 'Do you want  
12 your child to view this AIDS video,'  
13 then the parent can say yes or no.  
14 I think everyone will agree with  
15 this. 'Yes, I would allow my child,'  
16 or, 'No, I think this is usurping  
17 parental and all parental responsi-  
18 bility,' and it's no wonder to me  
19 that parents have kind of walked  
20 away from their kids when we have  
21 -- when we're doing things like  
22 this."

23 This all presupposes that Mr. Wyman's representation of  
24 what's in the bill is accurate, and it wasn't. The Senator says,  
25 "That's not what the bill wrote at all," yet the entire Board  
26 bought what he said without so much as a question or an  
27 investigation.  
28



1           That's kind of a shabby performance, it seems to me.

2           MS. PAPADAKIS: I don't -- I agree with you that if Mr.  
3 Wyman was incorrect and gave us bad information, then we got bad  
4 information.

5           But I would not doubt a Legislator who came in front of  
6 -- I mean, someone, an elected official, who came in front of the  
7 Board, and I was going to have him investigated to see if he was  
8 telling the truth? Or have him take an oath?

9           SENATOR PETRIS: No, you read the bill.

10          MS. PAPADAKIS: I should have read the bill; I should  
11 have read the bill. But --

12          SENATOR PETRIS: And your staff should have read the  
13 bill --

14          MS. PAPADAKIS: Somebody should have alerted us --

15          SENATOR PETRIS: What was on the agenda? Mr. Wyman  
16 doesn't get on their by accident.

17          MS. PAPADAKIS: No.

18          SENATOR PETRIS: It's on the agenda, and the subject to  
19 be considered is the bill.

20          MS. PAPADAKIS: Right.

21          SENATOR PETRIS: Now, you ought to sit in on some of our  
22 hearings and see how we contradict each other and jump on each  
23 other all the time. Well, we're colleagues, and that's easier.

24          Remember, I said at the outset, if I were sitting on a  
25 public body and a Legislator came in and made a representation to  
26 me, I'd believe it. I'd believe it.

27          MS. PAPADAKIS: I did, too.  
28



1           SENATOR PETRIS: But I would at least turn to the staff  
2 and say --

3           MS. PAPADAKIS: Is he right? Next time I will. Next  
4 time I get Gary Longholm by the neck and say, "Gary, is that so?"  
5 That's all.

6           SENATOR PETRIS: Well, either that, or get a briefing in  
7 advance on an issue as crucial as this, because that's one of the  
8 central issues that was discussed all the way through the  
9 Legislature.

10          MS. PAPADAKIS: We deal with this many bills. You know  
11 how many bills you manufacture over here.

12          SENATOR PETRIS: We have that problem, too.

13          MS. PAPADAKIS: Yes.

14          SENATOR PETRIS: Well, Mr. Chairman, I've taken --

15          MS. PAPADAKIS: But I did want parent consent; I did  
16 want it. And if that was in the bill, I would have been for it.

17          SENATOR PETRIS: Well, Wyman apparently said no, it  
18 wasn't.

19          I'll defer further questions until next time around.

20          MS. PAPADAKIS: Mr. Chairman, may I please ask, this has  
21 been postponed a couple of times. On August 26th, six people  
22 came up to testify for me, at their own expense and at their own  
23 time.

24          Now, I could not ask them to come up again this time,  
25 but there are other people who have come up to testify for me.

26          CHAIRMAN ROBERTI: We'll make sure the supporters are  
27 heard today.  
28





1 MS. PAPADAKIS: I would appreciate that.

2 CHAIRMAN ROBERTI: Who is here in support of Ms.  
3 Papadakis' confirmation? Let's start with the people who've come  
4 the farthest distance. It's a strange way to do this. Who had  
5 to take an airplane to get here? Why don't you come on up  
6 forward.

7 MS. PAPADAKIS: Do you want me to move?

8 CHAIRMAN ROBERTI: No, you can stay up front.

9 Francis Laufenberg.

10 DR. LAUFENBERG: My name is Francis Laufenberg. I live  
11 at 2625 Hillcrest Avenue in Orange. I am currently Vice  
12 President of the California State Board of Education.

13 I have known Ms. Papadakis for a number of years while  
14 serving as Superintendent of Schools in Long Beach. I knew her  
15 as a member of the Los Angeles County Board of Education. I have  
16 served with her on the State Board of Education for two years.

17 She is and always has been a hardworking, concerned  
18 Board Member. Her attendance at meetings has been excellent.  
19 She always participates, and she is always prepared.

20 While we do not always agree in our voting, I am  
21 convinced that Ms. Papadakis votes for what she feels to be in  
22 the best interests of children. She has no constituency of self-  
23 interest groups to which she is committed.

24 If Ms. Papadakis is not approved simply because some  
25 people do not believe she thinks right, then American democracy's  
26 in grave danger. She is a true citizen doing her duty as she  
27 sees fit.  
28



1 Ms. Papadakis is, herself, a member of an immigrant  
2 family, as she's told you. She knows what it is to be a  
3 foreigner in a new land, trying to learn the language and to fit  
4 in.

5 If her voice is to be silenced, then who's to speak for  
6 the newcomers? We need the voice of someone who has experienced  
7 the trauma of being an outsider speaking a foreign tongue.

8 And Mr. Chairman, I'd like to add -- straighten out some  
9 confusion here.

10 We are -- the school districts are required by law to  
11 provide education for children who do not speak English. That's  
12 the law in the Nichols decision in the U.S. Supreme Court. You  
13 have no choice. You must do it or be sued, or in force the  
14 federal government will step in.

15 Also, the basic program to teach immigrant children  
16 English in California still remains in force, the bulk of it,  
17 including the funding of it. And the money can only be spent for  
18 that. It must be spent for bilingual.

19 What died or sunsetted was a little part of it, the  
20 technicalities of a certain way of doing it. But basically,  
21 every school district must continue under federal law, and under  
22 basic State law, to continue providing an education for those who  
23 do not speak English as a native language. And the funding is  
24 still in place.

25 So, I'd just like to get that straight.

26 CHAIRMAN ROBERTI: Thank you.

27 Senator Mello.  
28





1           SENATOR MELLO: What you said is true, federal law  
2 mandates this education, but you said that we must provide  
3 education for immigrants.

4           What about the American citizens who are not English-  
5 speaking? There are a lot of them born in Texas, and Arizona,  
6 New Mexico.

7           DR. LAUFENBERG: Anybody who doesn't have English as  
8 their primary language, they're to be taken care of.

9           SENATOR MELLO: You said immigrants, but American  
10 citizens --

11          DR. LAUFENBERG: Yes, you're very correct, because the  
12 case that originally brought all this about was a Chinese in San  
13 Francisco. And I suspect a lot of them were born here in  
14 America, maybe even second generation, so you're absolutely  
15 right. They're a part of that.

16          In fact, in Texas, when I visited there to see their  
17 programs, they said the bulk of their students were born in Texas  
18 and were often second generation.

19          SENATOR MELLO: Thank you.

20          CHAIRMAN ROBERTI: Thank you.

21          Any other questions of Mr. Laufenberg?

22          Thank you very much.

23          Yes, please come forward.

24          DR. DYKE: My name is Perry Dyke. I'm currently the  
25 President of the State Board of Education.

26          I think that Ms. Papadakis' position on bilingual  
27 education has been misrepresented in many publications about --  
28 that have been written about what she believes.



1 I think she's been fully supportive of the Board policy  
2 and helped develop that Board policy. The policy was developed  
3 over about a year's time and was ratified by the entire Board at  
4 that time.

5 Since then, we have a new Board, and I'm a member of the  
6 new Board that has come on since that time. And the new Board  
7 has also ratified this particular bilingual policy.

8 Ms. Papadakis' position, as we all understand it on the  
9 Board, is that she is not against bilingual education, but she is  
10 for the teaching of English as quickly as possible to limited  
11 English speaking students.

12 She's campaigned vigorously for fully qualified  
13 bilingual teachers when academic subjects must be taught in a  
14 language other than English.

15 I'd like to stop there and reiterate what Dr. Laufenberg  
16 said about the current situation since the law sunsetted. There  
17 still is the requirement in the sunset law that those students  
18 who cannot speak English must, when necessary, be taught in their  
19 native language. So, that has not sunsetted.

20 She has lobbied for full parental notification and  
21 cooperation in the education of limited and non-English speaking  
22 children.

23 All of the above positions have been fully supported by  
24 the Board as a whole.

25 On other matters, Ms. Papadakis is a conscientious,  
26 hardworking, dedicated Board Member. She studies the issues; she  
27 asks questions; she votes her convictions. We don't always  
28 agree, but I'm sure you don't always agree either.



1 I believe that she's fully qualified and deserving of  
2 being a Member of the State Board of Education.

3 CHAIRMAN ROBERTI: Thank you very much.

4 Are there any questions?

5 Thank you very much.

6 Who else is in support? Please come forward.

7 MS. HOM: My name is Gloria Hom. I live at 6602 in Palo  
8 Alto, California. I've been a Member of the State Board for the  
9 past four years.

10 I've worked with Angie for -- on many issues. I see her  
11 as a very dedicated, very devoted person. She's always prepared,  
12 and although we don't always vote on -- we don't always vote the  
13 same on every issue, I do have great respect for her dedication.

14 I think she should be reappointed.

15 CHAIRMAN ROBERTI: Thank you very much, Ms. Hom.

16 Is there anyone else? Reverend Sheldon.

17 REV. SHELDON: My name is Lou Sheldon. I represent  
18 Traditional Values. We represent over 5,000 churches in  
19 California, of which many are of the Third World origin, Black  
20 and Hispanic.

21 Members of the Rules Committee, there seems to be  
22 considerable hate material circulating concerning the  
23 reconfirmation of Angie Papadakis to the State Board of Education  
24 by groups that do not have, we believe, first-hand information  
25 and knowledge of all the facts.

26 The issue seems to be that her position on bilingual  
27 education, her opposition to the recent bill by Speaker Willie  
28





1 Brown, AB 37, because she felt the program needed reform. This  
2 bill did not follow -- did not allow for reform.

3 A few examples of the needed reform in the legislation  
4 that sunsetted last year, which Speaker Brown reintroduced, were:  
5 required the teaching of Spanish to all students who did not  
6 speak English as their primary language. This required students  
7 whose primary language was Russian, or Chinese, or whatever, to  
8 be taught in Spanish for three years. And second, parents were  
9 not allowed to request to have their child learn directly in  
10 English.

11 We, in our organization, have worked personally and had  
12 considerable interaction with her over the various issues that  
13 the Board has considered and found her to be of the highest  
14 nature concerning her dedication to education, caring, and  
15 concern about the Third World individuals who have come to this  
16 country and who need to learn English. She is very strong in  
17 terms of the details of the material that is being taught in the  
18 classrooms, and other things that are considered in the Board.

19 Her knowledge of the State of California and its  
20 educational status is one that I would consider very high.

21 The opposition to her appears to have been  
22 misrepresenting her position, and I ask that you review the  
23 specific charges against her, and then compare it with the  
24 position you have received from her.

25 I would like to know exactly any reasons for her  
26 disqualification if that happens, and be shown the facts on both  
27 sides to prove those allegations.  
28



1           However, we do ask for her reconfirmation to the State  
2 Board of Education, as I believe the facts show that she is truly  
3 qualified.

4           CHAIRMAN ROBERTI: Thank you very much.

5           Is there anyone else here in support?

6           Is there opposition in the audience? Please come  
7 forward.

8           MR. LOPEZ: Good afternoon. My name is Ben Lopez. I'm  
9 representing California Rural Legal Assistance. We are a  
10 statewide public interest law firm representing farmworkers and  
11 the rural poor in California.

12           I'm also here representing the California Association  
13 for Bilingual Education. It's an organization of 10,000 strong  
14 bilingual educators, teaching in all forms of classrooms,  
15 representing the entire state.

16           I was one of the principle negotiators in both bills,  
17 2813 and AB 37 with Mr. Speaker Brown. I began working on the  
18 bill in 1980 when I was on the staff of Assemblyman Peter Chacon.  
19 I have watched its development. I have participated at almost  
20 every level, and over the past two years I have worked with just  
21 about every organization in this state to attempt to negotiate a  
22 compromise bill that would allow this program to continue.

23           So, when we speak as to the facts, I have been there. I  
24 was there. I am here. I know the facts.

25           We are here in strong opposition to the reconfirmation  
26 of Angie Papadakis. We have great troubles with the way she has  
27 presented herself as being a supporter of bilingual education in  
28





1 word, when in fact and in deed and in conduct, she has gone out  
2 of her way to oppose the two bills which stood the best chance of  
3 extending the life of the bilingual education program.

4 She has indicated that she is in favor of reform, yet  
5 the attempts that we have made to work out that reform have  
6 fallen on deaf ears and have run up against unwilling attitudes.  
7 I analyze this situation, "I would like reform, but I would like  
8 you to eliminate the trigger of ten. I would like you to remove  
9 and eliminate teacher waivers. Then I would like you to impose  
10 affirmative written parental consent."

11 The perfect analogy is this, "I love your house, but for  
12 me would you please take the roof off, knock down the walls, and  
13 eliminate the foundation." This is exactly what we're getting at  
14 here.

15 Now, as far as those issues, we offered numerous  
16 proposals to meet those demands. We came up with three sets of  
17 amendments. Each time we received nothing in return.

18 Finally, in the waning moments of the legislative  
19 session last year, I prevailed upon Mr. Speaker Brown to convene  
20 a meeting with himself, Mr. Peter Mehas from the Governor's  
21 Office, Mr. Frank Hill representing the Assembly Republicans, and  
22 myself, and Peter Roos representing another educational advocacy  
23 organization. After two hours of discussions, it became apparent  
24 that there was nothing at all that we would be able to offer;  
25 that, in fact, the agenda was strictly and entirely politically  
26 motivated. There was nothing we could offer.



1           Their point was clear: They wanted to see the  
2 elimination and the sunseting of this program, and that is fact.  
3 That is, in fact, what occurred.

4           So, I'm completely bothered by the fact that I hear  
5 these representations of being in support of bilingual education,  
6 yet the conduct and the record is quite clear.

7           CHAIRMAN ROBERTI: Any questions?

8           SENATOR PETRIS: Yes.

9           CHAIRMAN ROBERTI: Senator Petris.

10          SENATOR PETRIS: Ms. Papadakis has made a serious charge  
11 which I think has to be addressed.

12          The Board has tried every effort to recruit people who  
13 really know the language and are essentially Americans, so they  
14 can also teach children about America. I think that's a very  
15 strong point. She says there just aren't any. They had to go  
16 all the way to Spain to bring 80 teachers. I find that to be  
17 deplorable. I would think there'd be enough right here in the  
18 state or, certainly, neighboring states near California, where  
19 there's an old Spanish tradition.

20          Can you comment on that lack of people? Is it due to  
21 low pay, or is it just not enough people going into teaching?  
22 What's the problem?

23          MR. LOPEZ: I think the problem that we face with the  
24 present or the then-functioning statutory scheme was that there  
25 was, in fact, very few enticements for students, graduate  
26 students, to enter into the bilingual education programs.

27  
28



1           However, that is not without a lack of trying. In 2813,  
2 we proposed a number of changes in the funding to the  
3 institutions of higher education that would provide them with  
4 greater latitude in eliminating barriers, institutional barriers,  
5 within those -- within colleges, so that they would not have to  
6 take more than two or three classes that were duplicative in  
7 their credit, thereby facilitating any interested people in  
8 entering the classroom. We did that at all three levels. We  
9 created facilitators so that students in the community colleges  
10 could enter into programs that would also facilitate their  
11 matriculation from the two-year schools to the four-year schools,  
12 and into the teacher training programs.

13           We asked the Assembly Office of Research to develop a  
14 report that would enumerate a number of proposals that similarly  
15 affect the lack of a teacher pool. They did that. We referenced  
16 that report in 2813 and in AB 37. It contained 13  
17 recommendations, most of which were very low cost: providing  
18 incentives, providing greater resources, providing budgetary  
19 increases.

20           So, we did attempt to respond to that issue.

21           SENATOR PETRIS: Those were all directed toward trying  
22 to get more teachers.

23           MR. LOPEZ: Exactly.

24           We also, in 2813, in one of the initial amendments  
25 offered on the Floor of the Assembly, attempted to copy the Spain  
26 proposal by recruiting teachers already credentialed and  
27 experienced from Mexico and Latin America, and credentialed with  
28 sufficient number of years of experience.





1           That proposal was met with some chagrin by the minority  
2 party in the Assembly.

3           SENATOR PETRIS: Did that stay in the bill?

4           MR. LOPEZ: No, we were advised to remove it.

5           SENATOR PETRIS: Maybe you could comment on that.

6           CHAIRMAN ROBERTI: Senator Craven, then Ms. Papadakis.

7           SENATOR CRAVEN: Mr. Lopez, has there ever been any  
8 scheme or system whereby qualified bilingual teachers, regardless  
9 of their past history, even if they were novice teachers, pay  
10 them any degree of premium, or bring them in at more than the  
11 normal entry level?

12          MR. LOPEZ: There is a pay differential in several  
13 districts.

14          SENATOR CRAVEN: Is there?

15          MR. LOPEZ: Los Angeles being the largest and the most  
16 prominent.

17          SENATOR CRAVEN: Just to ask you quickly, you may have  
18 already answered it, but did you find it as strange as I did that  
19 the teachers were being imported from Spain?

20          MR. LOPEZ: Absolutely.

21          SENATOR CRAVEN: They're going to make them all  
22 Castellano.

23          MR. LOPEZ: Yeah, they won't speak the way I speak.

24          MS. PAPADAKIS: I just wanted to ask, this is the first  
25 time I've met Mr. Lopez.

26          Whatever negotiations were made about the amendments  
27 were made to the State Department of Education, or to somebody  
28



1 else, not to the State Board of Education. We are a different  
2 entity that the State Department of Education, and the  
3 Superintendent is a different entity than the State Board of  
4 Education. And the State Board of Education is supposed to be  
5 the policy making board as regards education.

6 But no one talked to us about the bill. Nobody talked  
7 to us about what they want to see in the bill.

8 We told them what our policy was, but that policy was  
9 not incorporated in the bill, and that's why we opposed it.

10 CHAIRMAN ROBERTI: Thank you.

11 I would like to ask another question on an item which  
12 has been raised.

13 Explain to me again, how does the parental consent  
14 aspect of this bill, or the lack thereof --

15 MR. LOPEZ: Under the present statutory scheme in the  
16 Education Code, there is what you have -- what you call a  
17 retroactive consent, whereby the school district or the school  
18 site sends a slip to the parent indicating that the child will be  
19 placed in a program.

20 If there is not a response to the contrary, the child  
21 remains placed.

22 The advantage to this procedure is that it allows the  
23 communication to be facilitated. It is low cost, low  
24 administration to the district.

25 What has been suggested on numerous occasions by the  
26 opposition as well as by the Board, and the Assembly Republicans  
27 who were the principle opposition, is an affirmative written  
28





1 consent, which in effect would require a tremendous effort by the  
2 school district, by the school site, in hiring additional  
3 personnel, increased expenditures for the resources, and then  
4 actually placing someone on the phones to call the parents and  
5 get their consent.

6 Now, it's interesting to note that not only did we  
7 oppose this, but every single mainstream group that was in  
8 support of the bill, and all mainstream groups did indeed support  
9 the bill, also opposed this as being administratively burdensome,  
10 fiscally and operatively.

11 The Rand Corporation, in 1986, developed a study and  
12 published it which, in fact, concluded the same.

13 MS. PAPADAKIS: For a child to go on a field trip, he  
14 has to have parental consent. For him to get an aspirin, he has  
15 to have parental consent. For a child to be enrolled in school,  
16 he has to have parental consent. To get him into a special  
17 education program, for any other reason. That is part of -- it's  
18 part of school.

19 When you take a kid to school, the parent has to say,  
20 "Yeah, I want my kid in this kind of class."

21 MR. LOPEZ: When you're discussing taking a child off  
22 the school premises, you're discussing also the possibility that  
23 something might befall that child; you're discussing liability  
24 toward the school.

25 When you're talking about placing the child in an  
26 educational program, that is not the case. And in special  
27 education, the scheme is such that individual learning programs  
28



1 are developed for each and every child. That is not the case  
2 with bilingual education, or what was then termed bilingual  
3 education.

4 MS. PAPADAKIS: I still don't think it would be a  
5 difficult thing to get parental consent for anything that has to  
6 do with something as important as which language their child is  
7 going to be instructed in.

8 MR. LOPEZ: For the record, I would point out that the  
9 Association of California School Administrators, ACSA, after  
10 deliberating on this issue quite a while, wrote several letters  
11 emphasizing their opposition to this type of provision, citing  
12 the administrative and fiscal nightmare it would create for all  
13 the districts as well as the small districts who can least afford  
14 this type of effort.

15 MS. PAPADAKIS: May I just say one thing.

16 The money goes for limited English proficient students  
17 the moment the child is assessed as limited English proficient.  
18 The assessment -- if a child is not -- I mean, the child is going  
19 to be serviced as a bilingual student under the law no matter if  
20 he is in an English class or in a Hispanic class. The money  
21 right now is going to go down for both programs. For both  
22 programs.

23 SENATOR PETRIS: May I ask, do you have problem with the  
24 incentives in the bill that he described to get more and more  
25 students into that field? Do you have any problem with that part  
26 of the bill?

27 MS. PAPADAKIS: You mean --  
28



1           SENATOR PETRIS: To develop more teachers.

2           MS. PAPADAKIS: No, I have no problem with that.

3           SENATOR PETRIS: You don't have any quarrel with that?

4           MS. PAPADAKIS: No. We need more teachers.

5           SENATOR PETRIS: Does anybody on the Board have any  
6 quarrel with that part of it?

7           MS. PAPADAKIS: No, the teachers are the ones that have  
8 a problem with signing waivers and going back to school.

9           I think teachers should -- we should give incentives so  
10 that we can get more teachers into the bilingual program who can  
11 speak the language of the children, so that the program will not  
12 be conducted by aides but will be conducted by qualified  
13 teachers.

14          MR. LOPEZ: I would like to respond to that one comment,  
15 because it literally drives me up the wall.

16          The classrooms are not being conducted by aides. The  
17 teachers who spend long hours preparing those classroom plans and  
18 going home, and then spending long hours with their assistants to  
19 convey them so that they can be adequately interpreted, I think,  
20 would take umbrage at the fact that the aides are now in charge of  
21 teaching. That is not the case whatsoever.

22          On a philosophical note, I think it's important to look  
23 at the bigger picture for us, for everyone in this state.  
24 California is on the verge of a demographic change that has  
25 rarely been seen in its history.

26          The system of primary language instruction, which we  
27 have -- and I agree with you, it is a misnomer to call it  
28





1 bilingual education -- has only been in effect for less than 15  
2 years. But within that short time, we have developed outstanding  
3 success stories in many districts, utilizing primary language  
4 instruction along a transitional bilingual education approach,  
5 which means that you utilize that child's native language to  
6 teach them content. And once they understand the content, then  
7 you translate that content.

8 If you tell a child, "Toma esto porque yo te digo," and  
9 the child doesn't know what the hell you're talking about,  
10 there's no education. But you tell the child, "This is what this  
11 is," in their native language, and then you transition them, you  
12 have great success stories.

13 And this is what has been happening over the last ten  
14 years, most notably in San Diego and in Los Angeles, Santa  
15 Barbara. We have 1,028 school districts. We have success  
16 stories in over 50 percent of those.

17 Now, after 15 years, how can we say it has not worked?  
18 It has not been given a chance.

19 This is a plea.

20 SENATOR PETRIS: Mr. Chairman.

21 CHAIRMAN ROBERTI: Senator Petris.

22 SENATOR PETRIS: Apart from those provisions you  
23 described in the bill and other legislation, are groups like the  
24 two you're speaking for here, and others, involved in their own  
25 efforts to try to encourage young people who know Spanish to go  
26 into teaching and to teach bilingual in particular?



1 MR. LOPEZ: Absolutely, absolutely. We sponsor numerous  
2 conferences throughout the state in conjunction with CABE, which  
3 is the Association for Bilingual Education, with CAFABE, which is  
4 the Association for Asian Bilingual Education. We call them  
5 paraprofessional conferences, which provides numerous people in  
6 college, specifically in community colleges, and numerous people  
7 presently servicing as classroom aides, provide them with the  
8 information and material so that they can understand how they can  
9 best traverse the nightmare called higher education into the  
10 teaching programs.

11 We also provide fiscal assistance along with other  
12 groups.

13 SENATOR PETRIS: Scholarships and loans?

14 MR. LOPEZ: Not loans, just small scholarships.

15 By way of background, CRLA, California Rural Legal  
16 Assistance, has been the principle litigator on the issue of  
17 services to limited English proficient children in California for  
18 the last ten years. And at this point, sad but true, we now find  
19 ourselves in a similar situation.

20 We have opted to develop a statewide monitoring system  
21 to address your concern, Mr. Mello, to find out what exactly is  
22 going on with those funds out there. The Supreme Court says we  
23 have to provide services to these children.

24 We have gotten promises from a number of school  
25 districts that say they will continue as before, but I represent  
26 -- my direct constituency is rural California. And quite  
27 frankly, I'm scared, because the complaints I get are outrageous.  
28





1 And we think it would be best to continue along the lines that we  
2 had under the statutory scheme.

3 SENATOR MELLO: I just want to ask you, just before you  
4 volunteered to state, what is happening as far as your knowledge  
5 right now?

6 Since the sunseting of bilingual education, the funding  
7 is still flowing into the school districts on an optional basis.  
8 What is happening?

9 MR. LOPEZ: Well, we'll take it from the day after  
10 sunset, on July 1st. We have been working with the State  
11 Department of Education. We worked with SDE to develop that  
12 so-called advisory, providing districts with nonbinding legal  
13 advice as to what their responsibilities were to service these  
14 LEP kids. Also providing codified correspondence so that with  
15 each obligation that they were made aware of, it would be  
16 referenced to the Supreme Court or the federal case law.

17 In terms of what is happening at the individual school  
18 districts, we have received assurances from what we call the Big  
19 20, the largest 20 school districts in the state, that they will  
20 continue to function as they did prior to the sunset.

21 Assurances and practices are often two different things,  
22 we find, however. So that is why we have, CRLA in conjunction  
23 with a number of other public interest law firms, have developed  
24 a statewide monitoring system. And we are conducting training  
25 classes, not only for the legal profession but for the education  
26 advocacy groups and for the parent groups throughout the state to  
27 apprise them of what their legal rights and obligations are.  
28



1 SENATOR MELLO: Thank you.

2 CHAIRMAN ROBERTI: Thank you very much.

3 Is there another witness?

4 MR. VEGA: My name is Eric Vega. I'm the State policy  
5 advocate for the Mexican American Legal Defense and Educational  
6 Fund.

7 We want to continue to be on the record and maintain our  
8 opposition to the reconfirmation of Angie Papadakis.

9 Our main concerns, I think, have been stated over and  
10 over, and that's what we construe, what we perceive as her  
11 opposition to bilingual education and to the testing of LEP in  
12 kindergarten.

13 I don't know the nuances and the facts, Mr. Craven, but  
14 I do understand that a majority of the organizations that were  
15 listed have contacted me and have expressed the same kinds of  
16 sentiments.

17 I think as Ben Lopez pointed out, there is a demographic  
18 explosion taking place in this state right now that we need to be  
19 conscious of, and I think that that points particularly to the  
20 need for having an expansive view towards bilingual rather than a  
21 narrow one.

22 Thank you.

23 CHAIRMAN ROBERTI: Thank you very much.

24 Next witness.

25 MR. YEE: Mr. Chairman, Members of the Senate Rules  
26 Committee, my name is Leland Yee. I represent the Asian Pacific  
27 American Coalition. It's a statewide Panasian civil rights  
28 advocacy group. We are a volunteer agency.



1 I'm here today on behalf of our national president,  
2 Allan Seid. He wanted me to read the following statement:

3 "Carefully and objectively study  
4 the record and perspectives of Angie  
5 Papadakis and conclude that we can-  
6 not support her reappointment to the  
7 Board of Education.

8 "As a civil rights organization  
9 advocating for Asian Pacific Americans,  
10 the focus of our review of Ms. Papadakis  
11 was her position on bilingual education  
12 for our limited English proficient  
13 children. In that area, she does not  
14 support bilingual education. That  
15 position is not tenable for our com-  
16 munity. Our children need bilingual  
17 education if they are to learn English  
18 efficiently and quickly. Moreover,  
19 bilingual education helps students  
20 maintain a positive self-image of  
21 themselves.

22 "Our children are our future, and  
23 bilingual education will help them  
24 realize a brighter future. Ms. Papadakis  
25 would deny all this to our children.  
26 She would return our children to the  
27 classrooms of the '50s, where many sat  
28





1           for months without understanding the  
2           instruction because of the lack of  
3           bilingual education. Her reappointment  
4           would represent a return to educational  
5           ideas and practices that are useless  
6           and harmful to our children.

7           "We strongly urge you not to confirm  
8           the reappointment of Ms. Papadakis."

9           On a more personal note, let me just say the following.  
10          I am a school psychologist with the Oakland Public School System.  
11          I had to take off some time to come and appear before you.

12          It is of interest that there's been some discussion that  
13          the legal requirements by the State on school districts in terms  
14          of providing bilingual education is not that important; that  
15          local districts can handle that.

16          I'd like to inform you that it is, in our district, with  
17          our parents who sued the Oakland Public School System in regards  
18          to nonprovision of adequate bilingual education that we now have  
19          a consent decree against the district in terms of providing  
20          adequate services for our bilingual children in our school  
21          district.

22          In a neighboring school district, Berkeley Unified,  
23          parents again had to sue the school district in regards to  
24          getting bilingual education for our children.

25          So it is imperative that we do have a State mandate for  
26          school districts in terms of providing bilingual education. You  
27          may have some districts who, in fact, may provide, but many other  
28



1 districts who are insensitive to the needs of bilingual children,  
2 of minority children, would be more than happy to allow those  
3 bilingual services to whither away.

4 The last personal comment I'd like to make is that when  
5 I was sitting in the audience and listening to the opening  
6 remarks of Ms. Papadakis, I was very, very shocked, I was very,  
7 very angry later on, in regards to her comment in her discussion  
8 or description of some of the individuals from other countries.

9 You mentioned the word "Chinaman". That is a racist  
10 comment towards my family, my forbearers.

11 SENATOR CRAVEN: I don't think she used the term.

12 MS. PAPADAKIS: I didn't say "Chinaman".

13 SENATOR CRAVEN: She said "Japanese" a while ago.

14 MS. PAPADAKIS: I said "Chinese".

15 MR. YEE: No, I heard "Chinaman". I think if you look  
16 at the tape again and read the tape --

17 MS. PAPADAKIS: Oh, it was in the Readers' Digest  
18 article, the one I wrote, right.

19 Was it the item I wrote in Readers' Digest?

20 MR. YEE: No, I think -- I don't know if it was an item  
21 or --

22 MS. PAPADAKIS: Yes, it was Readers' Digest.

23 CHAIRMAN ROBERTI: You were reading something.

24 SENATOR CRAVEN: I would like to have the gentleman --

25 MS. PAPADAKIS: It was in regards to never become a  
26 Chinese, and I said you will never become a Chinese:  
27  
28





1 "You will go to China, and  
2 you will never become a Chinaman."

3 You're right. I think I said "Chinaman" too.

4 I apologize.

5 SENATOR CRAVEN: Could we have the gentleman explain why  
6 that is wrong, please?

7 MS. PAPADAKIS: Yes, tell me.

8 MR. YEE: "Chinaman" was a term that was used in early  
9 California, where other groups would be chasing the Chinese  
10 around in terms of stoning them, in terms of cutting off their  
11 hair, in terms of assaulting them. That was the term that was  
12 used to characterize us as "Chinamen".

13 It's a term that is also used in a phrase, "Not a  
14 Chinaman's chance," and it was in reference to the fact that if  
15 you were a Chinaman, there was no chance at all that you would be  
16 able to survive in this country.

17 It is in that context that the term "Chinaman" is  
18 considered inappropriate, as a racist remark.

19 CHAIRMAN ROBERTI: On that point, Ms. Papadakis, like  
20 all of us, I think should be more sensitive. I think she should  
21 have been more sensitive.

22 But I don't think she meant it in that context.

23 I guess we all should be much more careful when we talk,  
24 but I do think in fairness, she didn't mean it in that context.

25 That is not to say that the word should be lightly used.

26 MS. PAPADAKIS: I shall certainly correct my -- I mean,  
27 it passed by all the editors and it passed by me.  
28



1 I thought I was always sensitive to other -- I didn't  
2 mean to -- Russian, to me -- I apologize. I didn't mean to  
3 inflame you.

4 SENATOR PETRIS: Mr. Chairman.

5 CHAIRMAN ROBERTI: Senator Petris.

6 SENATOR PETRIS: May I add a very brief comment.

7 I'm absolutely certain. I've known Ms. Papadakis for a  
8 long time. If she had any idea that that was a bad term, she  
9 would never use it.

10 MS. PAPADAKIS: Never would have used it.

11 SENATOR PETRIS: But I think the point has to be made.

12 There are a lot of Californians that don't realize the  
13 history that you pointed out. You make an excellent point. You  
14 see it on t.v. many times by people who normally would be shocked  
15 to be informed as to what the connotation is for people in the  
16 Chinese and the Asian community generally.

17 I hope you'll consider that, too. I really don't  
18 believe she intended it.

19 MR. YEE: Definitely.

20 MS. PAPADAKIS: You accept my apology, okay.

21 CHAIRMAN ROBERTI: Thank you very much.

22 MR. YEE: Thank you.

23 CHAIRMAN ROBERTI: Please come forward.

24 MR. MERINO: I'm Rene Merino. I'm the immediate past  
25 President of the Association of Mexican American Educators, and  
26 I'm here to speak against the confirmation of my fellow liberal,  
27 Angie Papadakis.  
28



1 I did have the occasion to talk to Ms. Papadakis on the  
2 phone, and she complained about many of the things she complained  
3 about today in terms of being misrepresented. And she asked me  
4 to read what she's written and check the record.

5 I did have occasion to read the article in the  
6 L.A. Times, and also I think it must be an address, something  
7 entitled, "Bilingo Jingo", and was a little bit upset for several  
8 reasons.

9 Number one, I think if someone is going to be published  
10 in the Los Angeles Times, I think they should be careful to base  
11 what they're going to say on supportable and defensible  
12 information and data. Speaking from the hip, or speaking from  
13 the heart, right off the top of your head, I don't think is  
14 appropriate for someone who is going to have in her hands the  
15 educational well being of, let's say, 600,000 of our students in  
16 the schools.

17 Ms. Papadakis has been on the Board for five years,  
18 approximately. I know I, myself, have addressed the Board at  
19 least once. I was one of perhaps 80 percent of a group that was  
20 involved in speaking against the reclassification major. We, I  
21 think, had the preponderance of the evidence, but the Board, I  
22 think, overwhelmingly went against us.

23 And I think, you know, when you have limited -- and we  
24 all work. One reason we don't go seeking certain people out to  
25 give input is because we know it's a waste of time. I think we  
26 have to measure where we're going to place our energies, and  
27 that's one reason.  
28





1 At the same time, I think, it's incumbent on people who  
2 have responsibility, serious responsibility, to seek out across  
3 the different populations to get input and find out where we're  
4 all coming from. And I don't think that was done. I think it's  
5 more incumbent on Ms. Papadakis and the other Board Members to  
6 seek us out and ask what we've come down on certain issues. That  
7 was never done.

8 I will not go into the details. I think these -- most  
9 of you have the articles, the L.A. Times article about Ramon; the  
10 "Bilingo Jingo", if you don't have that one, I'll be happy to  
11 give it to you.

12 MS. PAPADAKIS: Tell them when I wrote that article, the  
13 other one.

14 MR. MERINO: It's not dated, not dated. I think you  
15 were an adult when you wrote it.

16 MS. PAPADAKIS: Wait a minute.

17 It might have been -- I wrote that article at least  
18 12-15 years ago, and I am 12-15 years smarter now than when I  
19 wrote that article. That was when I first got on the L.A. County  
20 Board of Education, and we were talking about bilingual  
21 education.

22 MR. MERINO: Well --

23 MS. PAPADAKIS: That was 15 years ago, before I had an  
24 opportunity to look at bilingual programs and find out which ones  
25 were good, which ones were not, what was wrong with them, or what  
26 was good about them.

27 CHAIRMAN ROBERTI: Senator Petris.  
28



1           SENATOR PETRIS: On that article entitled or describing  
2 the plight of Ramon, could you be more specific as to what you  
3 think is objectionable?

4           MR. MERINO: She starts off talking about Ramon, stating  
5 that:

6           "If Ramon is classified LEP, this  
7 label will stay with him for the rest  
8 of his elementary school life and  
9 possibly through high school, unless  
10 he joins the 50 percent of Latino  
11 students who drop out."

12 This is the first time I've seen LEP used as a pejorative term.  
13 I didn't know it was a pejorative term.

14          CHAIRMAN ROBERTI: What was used?

15          MR. MERINO: LEP, limited English Proficient student.  
16 That says something to me. And later she says:

17          "We are [sic] robbing Vietnamese,  
18 Cambodians, Laotian, and Korean, and  
19 Hmong, and Samoan, and Filipino and  
20 89 other primary language of minority  
21 students in our schools of their  
22 language and their culture by in-  
23 structing them in English."

24          MS. PAPADAKIS: Are we.

25          MR. MERINO: Right, that's a question, "are we."

26          "These students are not in bilingual  
27 programs. They do not fail. They do  
28





1 not drop out, and some graduate at the  
2 top of their classes."

3 I'd like to let you know that some of our bilingual  
4 students also graduate very high in our classes. And not all  
5 Hmong, and not all Samoans, not all Filipinos succeed. I think  
6 that's a generalization that's pretty hard to support, and I  
7 think that taken in juxtaposition with what she's trying to put  
8 -- what she's trying to say is indicative.

9 She says:

10 "I believe in Ramon. I think he  
11 could learn the alphabet, numbers  
12 and colors in English every bit as  
13 quickly as any other student given  
14 the opportunity."

15 Most of the research, if people got into the research and look at  
16 the preponderance of the research, would show that for Hispanic  
17 students, bilingual education and primary language instruction  
18 should be the preferred way for two reasons: number one, we're  
19 getting more and more evidence of success; number two, there's  
20 nothing in the research that shows that bilingual education, or  
21 primary language education, is detrimental. And if you're going  
22 to make an error, you should make an error on the side that's  
23 going to be least harmful to the students.

24 These things, again, are shooting from the hip, and as  
25 I'm sure, shooting from the heart. I'm sure Ms. Papadakis is  
26 sincere in what she's saying, and they're also shooting from off  
27 the top of her head.  
28



1 I don't think it's appropriate for somebody who is going  
2 to be on the State Board of Education, and having in her hands  
3 the educational future of 600,000 of our students or more, that  
4 this is the appropriate way of approaching issues. I would  
5 assume, as it came out earlier, that a person should do their  
6 homework a little bit more thoroughly before -- and again, I  
7 don't mean to say that she's the only one. I have trouble with  
8 most of the Board. But Ms. Papadakis sees fit to put these  
9 things in print and go public with them.

10 So, our association, by the way, we are independent  
11 thinkers. We don't have so strong a herd instinct that we take  
12 up just because somebody says, "We have an issue here, follow  
13 me." We do think things out, and we have thought it out, and we  
14 have voted in our Executive Board to come out against the  
15 confirmation of Ms. Papadakis.

16 CHAIRMAN ROBERTI: One last remark from Ms. Papadakis,  
17 and then we'll take more witnesses next week, and Ms. Papadakis  
18 will be able to conclude next week as well.

19 MS. PAPADAKIS: I just wanted to say that I was also --  
20 I talked to Mr. Merino. He said that -- I asked him why he sent  
21 these things about me saying that I was, you know, vindictive,  
22 flagrant, incompetent, and everything. He said, "Because you are  
23 a public figure." A public figure. And then because I wrote a  
24 public article, an article that appeared in the paper. I don't  
25 think that that is contradictory to my position as a public  
26 figure.

27 MR. MERINO: I don't think I said "vindictive."  
28



1 MS. PAPADAKIS: If they can say things about me, I can  
2 also say things about myself.

3 CHAIRMAN ROBERTI: Mr. Merino, the name of your group  
4 one more time.

5 MR. MERINO: The Association of Mexican American  
6 Educators. We're a statewide group.

7 SENATOR CRAVEN: Mr. Merino, what's the membership in  
8 that organization?

9 MR. MERINO: We have about 1500 members in about 20  
10 chapters statewide.

11 SENATOR CRAVEN: Do you have a chapter in San Diego  
12 County?

13 MR. MERINO: Yes, we do.

14 SENATOR CRAVEN: Do you know offhand who the head of it  
15 is?

16 MR. MERINO: The regional vice president is Marco  
17 Pulier.

18 SENATOR CRAVEN: Senator Ellis and I both represent San  
19 Diego, and I don't know that gentleman, but that's not  
20 particularly unusual.

21 MR. MERINO: I barely know him myself.

22 CHAIRMAN ROBERTI: Thank you very much, Mr. Merino and  
23 Ms. Papadakis.

24 I think we have to break; we really do. So we are now  
25 in adjournment.

26 (Thereupon this portion of the Senate  
27 Rules Committee hearing was adjourned  
28 at approximately 4:20 P.M.)





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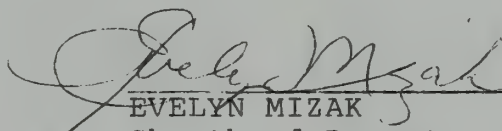
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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

8th day of January, 1988.

  
EVELYN MIZAK  
Shorthand Reporter









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27 Evelyn Mizak  
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APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM ELLIS

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

DARLENE E. RUIZ, Member  
State Water Resources Control Board

ANGIE L. PAPADAKIS, Member  
State Board of Education

BETTY A. G. CORDOBA, Member  
Public Employment Relations Board

JOHN T. HUNTER, Attorney  
Husband to Ms. Ruiz

ELEANOR L. CHOW, Member  
Local Board of Education

DAVID T. ROMERO, Member  
State Board of Education

GREGORY A. HEARN, Superintendent  
San Benito High School District  
Small School Districts Association  
Central California Education Consortium

RICHARD W. MASON, Teacher  
L.A. Unified School District  
President Emeritus, National Association of Professional Educators





APPEARANCES (Continued)

1 BOB GURIAN, Lobbyist  
2 California Faculty Association

3 BETH CAPELL, Lobbyist  
4 California Nurses Association

5 ANDY BARON, Lobbyist  
6 American Federation of State, County & Municipal Employees

7 MARY BERGEN, Lobbyist  
8 California Federation of Teachers

9 JOE PASQUALINI, Lobbyist  
10 Amalgamated Transit Union

11 PATTIE BARTLETT, Psychiatric Technician  
12 Communications Workers of America

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APPEARANCES (Continued)

1 DOROTHY L. JONES, President  
2 Professional Educators of Glendale

3 LIANE GALVIN, Member  
4 Freedom Foundation

5 DOROTHY P. DOWNING, Retired  
6 Former School Nurse

7 JERRY LLOYD, Past President  
8 Professional Educators Group of California

9 DOUGLAS A. BROWN, Executive Director  
10 School Employers Association

11 DOLLY SWIFT, Former Teacher

12 ED FOGLIA, President  
13 California Teachers Association

14 RALPH J. FLYNN, Executive Director  
15 California Teachers Association

16 WILLIAM LAMBERT  
17 United Teachers of Los Angeles

18 GENE PRESTON, General Manager  
19 California Employees Association

20 DAVE LOW, Lobbyist  
21 California School Employees Association

22 BILL HEATH, Staff Attorney  
23 California School Employees Association

24 MAURA KEALEY, Member  
25 Service Employees International Union

26 KENNETH C. KIM, School Board Member  
27 Hacienda La Puente Unified School District

28 TOM RANKIN, Lobbyist  
California Labor Federation, AFL-CIO

CHERYL BOLLING, School Board Member  
Emery Unified School District

DAN TERRY, President  
California Professional Firefighters

BARRY BROAD, Lobbyist  
Teamsters Union





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P R O C E E D I N G S

--oo0oo--

CHAIRMAN ROBERTI: In the File, the order of hearing the Appointees is the following: Papadakis, Ruiz and Cordoba. However, I understand that there is an illness in Ms. Ruiz' family, and we'll take that one up first, and then we'll resume the Papadakis hearing, and then we'll take the appointment up with Ms. Cordoba.

We will take Darlene Ruiz, Member of the State Water Resources Control Board.

MS. RUIZ: Good afternoon, Senators, Mr. Chair.

Thank you for this opportunity and for the consideration that this Committee is showing me.

I'd also like to take an opportunity to thank this Committee as well as the Governor and the whole Senate for the past four years. I believe that the past four years have reflected a very interesting time in the transition of a board which marked its 20th anniversary last year, and one in which we are still grappling with a great many changes and challenges.

If the Committee is interested, I'd like to --

CHAIRMAN ROBERTI: Yes, please do.

MS. RUIZ: The Board over the last four years has addressed a number of very difficult issues. Amongst them have been, certainly: the Kesterson Order, where we are continuing to monitor the work of the Bureau as it tries to clean up the very serious pollution problem; trying to grapple with the monitoring and permitting of underground tanks and their impact to our



1 environment; the issuance of an agricultural drainage report to  
2 try and relieve the impacts of ag. drainage to the environment;  
3 our promulgation and implementation of Subchapter 15, which are  
4 discharge to surface impoundment regulations; as well as a very  
5 ambitious undertaking which commenced last year and took up a  
6 great deal of the Board's time, dealing with a basin planning  
7 process for the Bay and Delta, which impacts almost every  
8 Californian.

9         These are but a few of the many issues that the Board is  
10 dealing with and has dealt with and will continue to deal with,  
11 with the help of a lot of various State and federal agencies, as  
12 well as citizens who bring these issues to our attention.

13         With that, I'd like to -- I welcome the opportunity to  
14 answer any of the Member's questions and to address any concerns  
15 that they may have.

16         CHAIRMAN ROBERTI: Thank you.

17         Are there any questions of Ms. Ruiz? Senator Mello.

18         SENATOR MELLO: I guess I voted for you last time also,  
19 and I'm happy to see you back here.

20         I do have a few questions. One is, it has come to our  
21 attention that your husband contributed in excess of \$5,000 to  
22 the Californians Against the Toxics Initiative for the defeat of  
23 Proposition 65, which is something that we are still trying to  
24 get implemented.

25         I believe this is kind of strange. Here you are, the  
26 Chair of the very important Board that manages our water and is  
27 trying to improve the quality that we have of the environment and  
28





1 the water, and here, your own husband -- and I do know that you  
2 have this agreement, because last time we talked about possible  
3 conflicts of interest, and you talked about a separation of your  
4 accounts. I guess legally you can do that, but in a sense, you  
5 know, the bonds of marriage and the community life that these two  
6 spouses spend with each other has close ties.

7 My first question, I guess, is: Was this his own  
8 separate money and not yours?

9 And secondly, what kind of feeling do you have inside by  
10 allowing the person closest to you in your life to be  
11 contributing money to defeat a measure that you are really  
12 involved in trying to protect, the State's water resources?

13 MS. RUIZ: Well, I understand your question and your  
14 concerns, Senator.

15 I first would like to state that I have knowledge of all  
16 my own joint accounts as well as separate accounts and know for a  
17 fact --

18 SENATOR MELLO: Excuse me.

19 Could you turn up the microphone for her like you did  
20 for me?

21 MS. RUIZ: I have knowledge, certainly, of all our joint  
22 accounts as well as my separate accounts. And to my knowledge,  
23 no such contribution was made.

24 If, on the other hand, my husband has in fact made such  
25 a sizeable contribution to that initiative, or to any other,  
26 we're going to have speak about where the money is for the new  
27 roof I've been looking for because --  
28



(Laughter.)

MS. RUIZ: -- because I don't know that it would be appropriate for him to be making such contributions.

SENATOR MELLO: With that, let me ask, Mr. Chairman, if I may ask the consultant, Nancy Michel.

Based on the information we have in front of us, and let me just read it. It says,

"John Hunter ...."

John Hunter is your spouse?

MS. RUIZ: Yes, he is.

SENATOR MELLO: It says that he:

"... has worked in the recent past with the California Council for Environmental and Economic Balance. During the last election, Mr. Hunter gave in excess of \$5,000 to the Californians Against the Toxics Initiative for the defeat of Proposition 65."

Now, Mr. Chairman, may I ask Nancy Michel, is that statement incorrect, then?

MS. MICHEL: This statement is included in the information provided to you from the Senate Office of Research. I would have to check with them to get their background information on where they got this, which I'm happy to do.

SENATOR MELLO: I think the information we had indicated that your husband did donate \$5,000. I have no way of knowing. I have no reason not to believe --





1 MS. RUIZ: If it becomes necessary --

2 SENATOR MELLO: -- your statement, but I think we should  
3 -- perhaps, Nancy, you could call the Senate Office of Research  
4 and find out if this statement is incorrect. Because I certainly  
5 wouldn't want to have this statement on your record if it's as  
6 you state, not true.

7 MS. RUIZ: I appreciate that, Senator.

8 Also available here today is also my husband. As I  
9 indicated, I know of no such contribution, so if it --

10 SENATOR MELLO: I don't want to put him on the stand.  
11 There may be a law against spouses testifying --

12 CHAIRMAN ROBERTI: Why don't we ask Mr. Hunter.

13 SENATOR CRAVEN: It seems the quickest way.

14 SENATOR MELLO: The truth may come out.

15 SENATOR CRAVEN: This may be the start of something big.

16 (Laughter.)

17 MR. HUNTER: Mr. Chairman, hopefully not here.

18 CHAIRMAN ROBERTI: Please identify yourself.

19 MR. HUNTER: My name is John Hunter.

20 Senator, you have a question?

21 SENATOR MELLO: I feel kind of awkward having asked this  
22 question. I read it verbatim, and apparently either the question  
23 is incorrect, or your spouse, Ms. Ruiz, is not aware of this.

24 I'll restate the information that I have here in my  
25 packet. It says,

26 "John Hunter, your spouse, has worked in  
27 the recent past with the California Council  
28



1 for Environmental and Economic Balance.

2 During the last election, Mr. Hunter gave  
3 in excess of \$5,000 to the Californians  
4 Against the Toxics Initiative for the  
5 defeat of Proposition 65."

6 MR. HUNTER: That is incorrect.

7 SENATOR MELLO: That is incorrect?

8 MR. HUNTER: I did not contribute money to the  
9 initiative campaign.

10 SENATOR MELLO: Did any funds go directly or from some  
11 firm that you might be affiliated with?

12 MR. HUNTER: No, sir.

13 There could be another John Hunter, sir. That's quite  
14 possible, but I did not contribute money.

15 SENATOR MELLO: I brought it up because I was alarmed by  
16 it, and I have no reason not to believe both of you.

17 But Ms. Michel also says that the Senate Office of  
18 Research will be down shortly with their documentation, which  
19 hopefully will clear it up. There may be another John Hunter.

20 I appreciate Mr. Hunter coming forth.

21 CHAIRMAN ROBERTI: Thank you, Mr. Hunter.

22 We normally don't ask spouses to testify; however, in  
23 this case I guess he was the relevant person to ask.

24 You can continue, Ms. Ruiz.

25 SENATOR MELLO: Mr. Chairman, another question.

26 CHAIRMAN ROBERTI: Senator Mello.  
27  
28



1           SENATOR MELLO: Another question here has to do with  
2 your attendance at some of the Board's public hearings,  
3 especially the hearings that were held in the Bay and Delta  
4 hearings between July and December of 1987, last year. Of the 36  
5 hearings that were held, you missed 24 of them, which is  
6 two-thirds of the hearings.

7           Is that common?

8           MS. RUIZ: No, Senator, it is not.

9           Actually, there were 54 hearings that we had concerning  
10 the Bay and Delta at locations throughout the state, but I think  
11 it's fair to ask the question.

12           It's important to understand that the Board cannot stop  
13 all its activities in pursuit of an issue even as important as  
14 the Bay/Delta, and in light of that, our Chair, recognizing this  
15 issue, saw fit to make various assignments to differing Board  
16 Members. And so, many times when I was absent from the Bay/Delta  
17 hearings, I was in fact assisting the Board by continuing to  
18 handle the matters of the Board that the Chair could not address  
19 because he had committed as his assignment to the continuity of  
20 being at every one of those Bay/Delta hearings.

21           So, many times the calendar will reflect that I was  
22 attending to EPA matters, toxics matters, various other programs  
23 of the Board as Vice Chair, covering the Chair's inability to be  
24 there.

25           SENATOR MELLO: All right.

26           And I guess just generally that while most people are  
27 supportive of your serving on the Board, I get a feeling of a  
28





1 partial lack of commitment to really be more aggressive in trying  
2 to protect the water quality of the state, and in fact not only  
3 protect, but enhance and improve and take this as a real high  
4 priority. And that's a feeling, I think, amongst probably not a  
5 majority, but some people who are aware of your record.

6 Would you care to comment on that, how you see and  
7 philosophize on your role and whether or not you think the  
8 State's water quality needs more aggressive protection, or is it  
9 just the status quo, trying to hang on to what we have?

10 MS. RUIZ: Thank you for the opportunity to address that  
11 kind of issue.

12 I agree with you that there is a feeling, and it's not  
13 simply over here in the Capitol but also throughout California,  
14 the frustration about how best to deal with these serious water  
15 quality issues.

16 I share that frustration, but a lot of it is in dealing  
17 with it, and dealing with it aggressively, most people are  
18 unaware that the State Board has had to create programs in  
19 response to legislation from whole cloth. And we are in the  
20 process of doing that, of establishing programs, hiring the  
21 qualified people, as well as budgeting for those efforts, and at  
22 the same time giving direction and guidance to make sure that  
23 translates out into some kind of active program in the field.

24 Examples of that are in the toxic pits cleanup areas,  
25 surface impoundments, and most visibly, leaking underground  
26 tanks.



1           It has taken a while, without any excuses, to get some  
2 of those programs moving. But I feel that the Board now has a  
3 handle on them and is addressing those as expeditiously as  
4 possible. And we will continue to try and make gains in those  
5 areas.

6           SENATOR MELLO: Does the Board have all of their staff  
7 positions filled now?

8           MS. RUIZ: No, we do not. I believe we still have an  
9 unacceptable vacancy factor at the State Board.

10          But I think that there are reasons for that, not  
11 excusable reasons, but reasons for it, and we are moving  
12 aggressively to try and make sure the regional boards as well as  
13 our own division offices come up to full staffing in order to  
14 implement the programs.

15          SENATOR MELLO: What are the reasons?

16          MS. RUIZ: Well, some of them go to the heart and soul  
17 of the testing methods, the availability of even qualified  
18 individuals for some of these positions.

19          We're competing in the same market with the Air Board as  
20 well as Caltrans for engineers. We're competing with other  
21 environmental agencies for environmental specialists and the  
22 like.

23          There are some fundamental problems, even as we find new  
24 issues in groundwater, of finding people who know how to address  
25 those issues from a certain discipline.

26          So, dealing with what we've got right now, I think the  
27 Board is doing a good job in trying to fill those vacancies as  
28



1 quickly as possible and get people trained to respond to program  
2 needs.

3 SENATOR MELLO: How many vacancies do we have at this  
4 point?

5 MS. RUIZ: My last information was that we have  
6 approximately a hundred vacancies still.

7 SENATOR MELLO: What about the new budget? Have you  
8 requested those positions be filled plus any additional amount of  
9 positions to help?

10 I think we're playing catch-up in trying to bring our  
11 water quality in many areas, both groundwater and water that's in  
12 our streams and lakes up to a higher standard.

13 Are you asking for more resources in order to do this,  
14 or are you merely just going along with what we have in the  
15 current budget?

16 MS. RUIZ: Well, I believe that the Water Board has  
17 shown dramatic growth over the last four years. We have been  
18 given, whenever we've asked, the resources. And even when we  
19 haven't asked, we've been given the resources to address some of  
20 these programs.

21 So, I don't feel that we have necessarily been slighted  
22 in terms of resources. It's a matter of programming to get it  
23 done and implemented, hiring the proper people and getting them  
24 trained. Sometimes that's one of the biggest frustrations.

25 SENATOR MELLO: Are salaries that are being offered to  
26 these employees that you're not able to fill the positions, is  
27 that a factor?  
28





1 MS. RUIZ: I don't know for a fact. I'd like to think  
2 that we're competitive, certainly, with local governments and  
3 other governmental entities that are in fact trying to grapple  
4 with these environmental issues.

5 My understanding is that the top qualified environmental  
6 people are being taken by -- taken by industry in the private  
7 sector.

8 SENATOR MELLO: Perhaps, Mr. Chairman, may I ask Nancy  
9 Michel, apparently there is a Mr. John Hunter listed here at 1100  
10 11th Street, #10, Sacramento, who gave \$5,168 to the Citizens  
11 Against Proposition 65.

12 Is that Mr. Hunter's address?

13 MS. RUIZ: 1100?

14 SENATOR MELLO: Mr. Chairman, I think we should clear  
15 this up.

16 CHAIRMAN ROBERTI: Mr. Hunter, you get to come up again.

17 SENATOR MELLO: I think clearing it up, if this is an  
18 untrue and false statement, is important.

19 This information here is taken out of the campaign  
20 statement filed between 7/01/86 and 7/30/86 by the Californians  
21 Against the Toxics Initiative. They're located at 1030 15th  
22 Street in Sacramento, Treasurer John Hodgson. There's listed  
23 here a John Hunter, with the address of 1100 11th Street, #10,  
24 Sacramento, California, having given on August 25th 1986,  
25 \$5,168.19.

26 That could have been an in-kind sort of --  
27  
28



1 MR. HUNTER: It was not an in-kind. I'm sure that that  
2 was a payment. I served as one of the lawyers consulting with  
3 the campaign. That sounds about right for payments made in that  
4 period of time to me, not from me.

5 SENATOR MELLO: Oh, that's a payee, yes.

6 MR. HUNTER: I'm a payee.

7 SENATOR MELLO: So they paid you?

8 MR. HUNTER: Yes, sir.

9 SENATOR MELLO: They paid you \$5,168?

10 MR. HUNTER: Yes, sir.

11 SENATOR MELLO: So then, you were working with the  
12 Committee Against the --

13 MR. HUNTER: I was serving as one of the legal counsels  
14 for that committee; that is correct.

15 SENATOR MELLO: Mr. Chairman, may I call on staff here?

16 CHAIRMAN ROBERTI: Fine.

17 MR. JENNINGS: My name is Bruce Jennings with the Senate  
18 Office of Research.

19 I simply want to verify the fact that you're saying  
20 that's the amount that was received --

21 MR. HUNTER: By me.

22 MR. JENNINGS: -- by you?

23 MR. HUNTER: Not to the committee, but by me.

24 MR. JENNINGS: Okay, and do you know if that's a record  
25 of -- you received that from the Committee Against Proposition  
26 65?



1 MR. HUNTER: If I served as counsel, I received some  
2 money from them. I probably received more than that. I don't  
3 know the exact amount. But for a period of time I served as one  
4 of the counsels to the committee.

5 Maybe Mr. Hodgson could take that up.

6 SENATOR MELLO: I think we have the answer to what is  
7 documented here, and I thank you for confirming the fact that  
8 your husband did receive \$5100 in payment for his serving as a  
9 counsel for the Californians Against Proposition 65.

10 Were you aware of that?

11 MS. RUIZ: I'm aware that he had clients that he was  
12 doing -- that he represented in his capacity as an attorney and  
13 as a consultant, but I wasn't aware that it was specifically in  
14 that amount, no.

15 SENATOR MELLO: As he said, it might have been more.  
16 This is just for that one time period.

17 I was sort of hoping that this was a mixed identity, and  
18 that maybe there was another John Hunter.

19 I think that fact that, even though you have this  
20 division, a legal division, the fact that you are serving as  
21 Chair of the State Water Board, and your husband is being paid  
22 some money in excess of \$5,000 to represent a group who were  
23 fighting to defeat a measure, doesn't set too well, I think, with  
24 me or the people of the State who are looking to you to protect  
25 our water quality.

26 MS. RUIZ: Well, first off, I think it's important to  
27 note, Senator, that rarely do my husband and I agree on  
28 everything.





1 I view it as, certainly, a right of his, tantamount  
2 almost to the First Amendment right, to deal and to handle his  
3 business, and conduct his business, separate from my opinions and  
4 views.

5 And as the Vice Chair of the State Water Board, I have  
6 taken an oath, coupled with the oath as an attorney to practice  
7 in the State of California, to uphold the laws of this State.  
8 And that includes, where appropriate, Proposition 65.

9 Now, the State Water Board is not the lead agency in  
10 that matter, but to the degree that our comprehensive Porter-  
11 Cologne authorities impact that, I'm sworn to uphold them. And  
12 whether it's my husband, my father, any relative, I take those  
13 oaths quite seriously, and I think I've demonstrated that in the  
14 last four years.

15 SENATOR MELLO: Of course, you're the one who's up here  
16 being confirmed.

17 I know, in speaking with a few attorneys, some of them  
18 have said, "Well, I don't want to handle this because this puts  
19 me in a position where my wife, or friend, or some law partner,  
20 or some member of the family is in an authoritative position that  
21 would have the appearance of a conflict."

22 This is just my opinion, but I think by him accepting  
23 funds from this group to defeat a measure that weakens or takes  
24 away your ability to strengthen the water quality of the State is  
25 in very poor taste.

26 MS. RUIZ: I appreciate your view.  
27  
28



1           SFNATOR MELLO: It has no reflection on you, but I think  
2 he's put you in a very difficult position. He could have just as  
3 well said, "Well, my wife is Chair of the Water Board. This  
4 doesn't look good for me to represent this group, and I would  
5 therefore refrain from being your counsel."

6           Okay, thank you, Mr. Chairman.

7           CHAIRMAN ROBERTI: Are there any people here in support  
8 of the confirmation of Ms. Ruiz? Opposition?

9           SENATOR CRAVEN: Move Ms. Ruiz' nomination.

10          CHAIRMAN ROBERTI: Senator Craven moves the nomination  
11 of Darlene Ruiz to the Floor.

12          Is there any further discussion or debate?

13          Hearing none, the Secretary will call the roll.

14          SECRETARY WEBB: Senator Ellis.

15          SENATOR ELLIS: Aye.

16          SECRETARY WEBB: Senator Mello. Senator Petris.  
17 Senator Craven.

18          SENATOR CRAVEN: Aye.

19          SECRETARY WEBB: Senator Roberti.

20          CHAIRMAN ROBERTI: Aye.

21          The vote is three to nothing; confirmation is  
22 recommendation to the Floor.

23          Congratulations.

24          MS. RUIZ: Thank you, Senators.

25          CHAIRMAN ROBERTI: Next is a resumption of the  
26 confirmation of Angie L. Papadakis, Member of the State Board of  
27 Education.  
28



1 Let me try to reconstruct where we were from last week.

2 Are there any people here who did not testify either in  
3 support or opposition last week that choose to be heard this  
4 week? Please stand and give me an idea of how many there are.  
5 All right, there are two.

6 We will take the two individuals in support now, and  
7 then Ms. Papadakis will be given a chance to conclude in  
8 summation. So please come forward, the two in support.

9 MS. CHOW: Thank you, Senator Roberti, Chair of the  
10 Senate Rules Committee.

11 CHAIRMAN ROBERTI: Please indicate your name and if you  
12 represent an organization.

13 MS. CHOW: My name is Eleanor Chow, and I reside in  
14 Montebello, California.

15 I am also a member of a local board of education,  
16 although I am here not representing my school board, but myself  
17 in support of Angie Papadakis for the confirmation of the Senate  
18 for the State Board of Education.

19 I have not known Angie for many, many years, but just in  
20 the past few years. And the issue is the concern that I have.

21 If anyone is, say, fifty years or older, the  
22 terminologies that we use in describing or referencing to  
23 different country people is something that comes automatically to  
24 us, because we were raised that way and use those terms.

25 I don't think there is anyone in this room that had been  
26 prejudiced or felt a prejudice as much as myself. And I have  
27 gone, and I have been in a situation as Ms. Papadakis, and so I  
28





1 have a lot of compassion for what she is going through at this  
2 present time.

3 CHAIRMAN ROBERTI: Thank you, Ms. Chow.

4 First I must say, I know you and I respect your work in  
5 education, and I think you're an excellent witness for Ms.  
6 Papadakis.

7 However, I certainly myself do not feel that Ms.  
8 Papadakis -- there has been, maybe, some intimation of it -- but  
9 I don't feel that Ms. Papadakis is prejudiced, or in particular  
10 the little slip of the tongue last week. We all slip our tongues  
11 on something or other.

12 It's unfortunate. We all have to be more careful. It's  
13 good to be reminded once in a while that we should do that.

14 But I didn't view that as a serious lapse, and I'm glad  
15 that you, being of Chinese extraction, come forward and indicate  
16 that as well to us.

17 I think the disputants who came here on Ms. Papadakis'  
18 hearing are probably more concerned about their perception of her  
19 willingness to implement bilingual education requirements or to  
20 re-institute them in our state.

21 I'm glad you're here to dispel any notion that  
22 Ms. Papadakis may harbor any prejudice.

23 MS. CHOW: Thank you very much.

24 I will just speak to her views on bilingual education as  
25 I see it.

26 You know, we do have State and federal, even though the  
27 Governor did veto the bilingual education bill last year. And  
28



1 all of us would concur that we need bilingual education to help  
2 the non-English speaking students, and I know she 100 percent  
3 supports that view.

4 And when you talk about bilingual education, it's such a  
5 broad subject, so it's a matter of interpretation.

6 Her performance on the State Board of Education should  
7 be highly commended, and also her background and her work in the  
8 community, and with the groups, and in the community will speak  
9 for itself.

10 So I feel I'm very much in support of Ms. Papadakis  
11 remaining on the State Board of Education and would really  
12 appreciate your serious consideration for her reappointment.

13 Thank you very much for your time. If you have any  
14 questions, I'll be happy to answer them.

15 CHAIRMAN ROBERTI: Thank you, Ms. Chow.

16 Are there any questions?

17 Seeing none, thank you very much for coming.

18 MS. CHOW: Thank you very much.

19 CHAIRMAN ROBERTI: Next.

20 MR. ROMERO: Good afternoon, Mr. Chairman, Members of  
21 the Committee.

22 My name is Dave Romero, and I'm presently a Member of  
23 the State Board of Education.

24 I've had the opportunity to be before you twice already:  
25 last year for my second confirmation to the State Board; this is  
26 my -- in March, I'll be starting my sixth year on the State Board  
27 of Education.



1 I'm here to speak in support of Ms. Papadakis'  
2 confirmation to a second term on the State Board of Education.

3 I would like to give, I think, a broader perspective of  
4 the work that Ms. Papadakis has done on the State Board of  
5 Education. And I will address, I believe, the issue of bilingual  
6 education.

7 At the end of my presentation, I will be very happy to  
8 answer any questions that you might have regarding this or any  
9 other issue.

10 As I've said, I've had the opportunity for the last five  
11 years to work with Ms. Papadakis. And some of the issues that  
12 we've worked with, and with which she has cooperated and worked  
13 very effectively, include major policy issues that affect all the  
14 state: the textbook adoption process for K-8, including  
15 supervision of all the State frameworks; development of State  
16 model high school graduation requirement guidelines; family  
17 education planning guidelines; school district reorganization  
18 guidelines which affect a thousand school districts in this  
19 state; the recent passage and development of the State Board of  
20 the genocide and holocaust guidelines for the state; and  
21 bilingual education and other programs that we have worked on.

22 MS. PAPADAKIS: You don't have to say all that. Just  
23 tell them I'm a good guy.

24 MR. ROMERO: Well, you'll have your chance to speak your  
25 peace.

26 (Laughter.)  
27  
28





1 CHAIRMAN ROBERTI: He wants to say it, too.

2 MR. ROMERO: I have to keep reminding her at Board  
3 meetings the same thing, you know.

4 MS. PAPADAKIS: Keep quiet.

5 MR. ROMERO: Yes.

6 (Laughter.)

7 MR. ROMERO: But I wish to, you know, dispel the fact  
8 that she is a one-issue oriented person. She is not. This is --  
9 I offer this as part of my presentation in her support.

10 As regards to bilingual education, I think we have to  
11 clarify terminology. I think the appropriate way to define this  
12 issue is limited English proficient students. That is the  
13 concept of language acquisition. That's what we're talking  
14 about.

15 Bilingual education is a methodology, the same way as  
16 you have immersion programs, and the same way as you have LEP  
17 programs and other programs that will assist students to acquire  
18 the English language.

19 So, I think we have to be very, very clear about that  
20 and say that the Board is in full support of this type of  
21 educational approach. And what we seek to do is that, you know,  
22 local school districts and parents should have more say as to the  
23 way that they educate their kids.

24 So therefore, it's very critical that we define these  
25 methodologies. It's the same way in teaching music, math or art;  
26 there isn't one way to teach those subjects.

27

28



1           And I think this is where, perhaps, the perception or  
2 misperception has been that Ms. Papadakis, and perhaps the State  
3 Board, has been in opposition to bilingual education. We are  
4 not. And I would be the first one to be in opposition to anyone  
5 that would offer that type of statement, being myself a product  
6 of the East side of Los Angeles, and growing up, I think, with  
7 most of your Mexican American Senators and Assemblymen in the  
8 State Capitol. I have experienced first-hand that kind of  
9 situation.

10           So, I'm here to try to work with you and to try to  
11 understand exactly some of the positions that we have taken and,  
12 in turn, Ms. Papadakis has taken as far as bilingual education.

13           We have supported this type of concept. I have worked  
14 personally, the last few years, with the Speaker's office, CSEA,  
15 CTA and others, in trying to forge a compromise bill. This, I  
16 think, is proof of the fact that we do care about bilingual  
17 education; we do care about special education; we do care about  
18 all the kids here in California.

19           And I would like to entertain any questions that you  
20 might have, any technical questions, regarding this particular  
21 subject.

22           CHAIRMAN ROBERTI: Thank you very much, Mr. Romero.

23           Any questions?

24           Hearing none, I thank the two witnesses.

25           MS. CHOW: Thank you very much.

26           MR. ROMERO: Thank you.

27           CHAIRMAN ROBERTI: You may conclude, Ms. Papadakis.  
28



1 MS. PAPADAKIS: Thank you very much.

2 Mr. Yee took umbrage because I used a word that was  
3 offensive to the Chinese people, and I apologize because I did  
4 not know that the word, "Chinaman" was a racist term. I really  
5 didn't know that.

6 But in the very same article, I used the term,  
7 "Frenchman", and just in case I do not know that that is an  
8 offensive term, I shall also apologize for that.

9 However, I cannot apologize for my work on the State  
10 Board of Education, nor for my work on the Los Angeles County  
11 Board of Education, or on the Los Angeles County Department of  
12 Public Social Services Commission, or the Round Table Against  
13 Gang Violence, or the Los Angeles Educational Partnership that  
14 pours \$10 million into Los Angeles schools through their many  
15 programs, one of which is Focus on Youth.

16 Now, another \$10 million grant from ARCO started this  
17 program, and the Director is Dr. Jose Colon. And Lydia Lopez of  
18 UNO and I serve on his committee. The program started at Manual  
19 Arts High, where it was determined that out of their almost 3,000  
20 predominantly minority students, only 38 -- not 38 percent, but  
21 38 -- were at grade level. These are the students at risk.

22 I mentioned before the 37 percent dropout situation.  
23 Focus on Youth has a three-year track record and is holding 85  
24 percent of these students in school with intervention, with  
25 special attention, connecting them with social services, to  
26 community agencies and to employers.

27

28







1           The Round Table Against Gang Violence, which I chaired,  
2 addressed a critical problem in our community. The Harbor area  
3 has the second largest number of gangs, and the second largest  
4 crime rate in Southern California. We studied the gang problem.  
5 We learned that the majority of the gang members are dropouts and  
6 that intervention was not the answer. We decided on prevention.

7           Now, prevention doesn't make headlines. Prevention is  
8 like the cement dividers on a freeway. Head-on collisions and  
9 gang shootings make headlines. We decided to build cement  
10 dividers between fifth graders and the gangs; we called it a  
11 "Gang Alternative" program. We got \$100,000 from United Way, and  
12 we started in the Harbor in eight Harbor area schools that are  
13 predominantly Hispanic. We indoctrinate students against joining  
14 gangs. We tell them that gang membership means -- we tell them  
15 what gang membership means: the dropouts, the violence, the  
16 deaths. We tell them that nothing wonderful ever happened by  
17 gang activity. We tell them that all discoveries, all  
18 interventions, all great art, music, heroic deeds, all the gold  
19 medals have been won by individuals, not gangs.

20           Last year, we got another 300,000, this time from the  
21 Criminal Justice Department up here, and now we have the Gang  
22 Alternative program in 16 Harbor area schools.

23           I have also seen the down side of the dropout situation  
24 as a Commissioner of the Department of Public Social Services. I  
25 have seen the children who are the dropouts, and the delinquents,  
26 and the children who are wards of the court. The children who  
27 are shuttled from facility to facility, and if they're lucky,  
28



1 from foster home to foster home. I need not tell you the drain  
2 on our society.

3 These students did not drop out or become delinquent  
4 because they were succeeding in school. They dropped out because  
5 they were failing.

6 Incidentally, the Guadalupe Home's twelve facilities  
7 throughout the State are run by the Greek Orthodox Church. But  
8 the children they serve are from all denominations, all colors,  
9 all ethnic backgrounds, but primarily minority.

10 I was asked to serve on their Board of Directors, but  
11 there are just so many calendar days a month. But I do support  
12 the work of Father Leon Pattias, as do many other Greek Orthodox  
13 citizens.

14 I will not mention my work on the Boy Scouts, Salvation  
15 Army, United Way and others.

16 I mention all of this only because I have been  
17 personally attacked as a racist, a bigot, anti-minority, and  
18 anti-bilingual.

19 I have seen the children who have failed in our public  
20 schools, and I have seen how public schools have sometimes failed  
21 them. So it is not just from my work on the Board that I am  
22 trying to correct some of these problems. I have worked with  
23 these problems first-hand in the Los Angeles City, in Los Angeles  
24 County, and in the Harbor and South Bay areas.

25 There are many educational issues that the State Board  
26 of Education has dealt with during my term of office: textbooks,  
27 very important; curriculum frameworks; family life sex education  
28



1 guidelines; human rights and genocide framework; and district  
2 reorganization; unifications; et cetera.

3 But my vote of these issues has not been questioned. I  
4 have been challenged on my position on the Chacon-Moscone bill,  
5 507, and the two bills that were offered to extend 507 with some  
6 amendments.

7 Some think that because the bill has sunsetted, that the  
8 bilingual program has sunsetted. That is not true. Only some of  
9 the regulations have sunsetted.

10 There is a federal mandate to educate all limited  
11 English proficient students, as it was pointed out, the  
12 Lau versus Nichols decision. All students who cannot speak  
13 English must have some special help which may be in their native  
14 language or it may not. In their wisdom, they did not choose one  
15 method of instruction.

16 Then came the Lau remedies that did, but they were  
17 repealed. Then California came up with our bilingual program,  
18 and it had every good intention. It hoped to solve the language  
19 barrier problem that our minority students were facing, and in  
20 many districts it is working wonderfully well, as I testified  
21 earlier, but in many other districts it is not. And I will not  
22 reiterate some of the problems.

23 The State Board of Education has oversight  
24 responsibility to 1,028 school districts throughout the state.  
25 Half of our 4.3 million students are minorities. But they are  
26 not all Hispanic. Only one-fourth are. The other one-fourth are  
27 ethnic minorities, and the largest portion of those are Asian  
28 Pacific.







1 For every classroom, every classroom is different. And  
2 yet, every classroom has to comply with exactly the same very  
3 prescriptive regulations.

4 Teachers, administrators, superintendents cannot speak  
5 out because their jobs are at stake, but the State Board of  
6 Education is not hired or elected. We are appointed advocates  
7 for students. Our charge is to see that the educational needs of  
8 all students are met. If we do not speak out, who will?

9 And I -- all I did was support the policy that the State  
10 Board of Education had hammered out. This is the policy that  
11 there has been so much misinformation about:

12 "After careful deliberation and discussion,  
13 the California State Board of Education  
14 adopts the following position statements  
15 with regard to educational programs for  
16 limited English proficient students.

17 These position statements are intended to  
18 guide perspective changes in regulations  
19 and administrative procedures for which  
20 the Board is responsible, serve as a basis  
21 for evaluating prospective changes in the  
22 Bilingual Education Improvement and Reform  
23 Act of 1980, and other purposes considered  
24 appropriate by the Committee of the Whole  
25 of the Board.

26 "Equal Educational Opportunity. The  
27 primary purpose of all special programs  
28



1       for LEP students is to facilitate each  
2       student's ability to speak, understand,  
3       read and write English as quickly as  
4       possible so that they might participate  
5       in English-only programs.

6       "The State Board of Education re-  
7       cognizes that there exists federal legal  
8       requirements as well as a clear moral  
9       obligation to provide special programs  
10      for LEP students enrolled in the State's  
11      public schools in order to ensure that  
12      those students are given an equal edu-  
13      cational opportunity. In special programs  
14      other than those programs, or components  
15      of programs, provided for the sole purpose  
16      of acquiring English, the goals and ob-  
17      jectives of the curriculum offered to LEP  
18      students should be comparable to that  
19      provided students whose primary language  
20      is English.

21      "Teaching methodologies, instructional  
22      strategies, and instructional materials  
23      employed in programs of LEP students should  
24      be appropriate to the students' special  
25      linguistic needs.

26      "Local Flexibility. While ensuring  
27      local school district accountability for  
28



1 the achievement of LEP students, and at  
2 the same time providing safeguards to  
3 ensure quality programs, legal requirements  
4 for educational programs to these students  
5 should allow school districts flexibility  
6 to design instructional programs based on  
7 the needs of their students and the resources  
8 available to the districts. Districts  
9 should be allowed flexibility to determine  
10 appropriate staffing for the instructional  
11 programs they design.

12 "Current teachers and students pursuing  
13 a career in teaching should be offered  
14 incentives to gain the skills necessary to  
15 provide instruction for LEP students.  
16 Teachers and students enrolled in teacher  
17 preparation programs who have benefitted  
18 from an incentive program to acquire special  
19 skills to work with LEP students should be  
20 required to teach those students for a  
21 specific period of time.

22 "In cases where teachers are assisted  
23 by aides, the responsibility for teaching  
24 and evaluating the progress of the LEP  
25 students clearly rests with the teacher and  
26 not the instructional aide.





1 "Decisions about entrance to or exit  
2 from a special program for LEP students  
3 shall be made at the local level. Assess-  
4 ments should not be conducted until students  
5 enter the first grade; however, appropriate  
6 programs should be provided to LEP kinder-  
7 garten students.

8 "Educational programs for LEP students  
9 shall be provided adequate funding; however,  
10 the cost of such programs should not encroach  
11 upon the funding available for other educational  
12 programs."

13 And lastly,

14 "Parental Choice. The parents of LEP  
15 fluent English proficient and English-only  
16 students must be involved in the education  
17 of their children. Parents should be involved  
18 with viable program options for their children  
19 and sufficient information about these options  
20 to make informed decisions.

21 "Districts should be required within  
22 reasonable limits to obtain the written consent  
23 of the student's parents or guardian before  
24 enrolling any LEP student, fluent English  
25 proficient student, or student whose primary  
26 language is English in a special program.  
27 Viable program options for LEP children shall  
28



1 include: instructional programs that use the  
2 student's primary language and those that do  
3 not."

4 There is one more thing that you should know. I am  
5 Chairman of the Screening Committee of the State Board of  
6 Education. We selected three students out of the 200 outstanding  
7 students who applied for a seat on the Board. Your legislation  
8 has given student Board Members a full vote.

9 We selected Mariela Martinez from Saddleback; Boon Chung  
10 Wong from Clovis; and John Godfrey from Brea Olinda. Wong came  
11 to us from Hong Kong, and Martinez came to California when she  
12 was eight years old. Is it merely coincidence, or is it  
13 significant, that neither of these students were in a  
14 transitional bilingual program? But no one can say that their  
15 school districts and their teachers in the last twelve -- eleven  
16 years that they were in school did not answer their educational  
17 needs.

18 How we educate our LEP students is not going to be  
19 resolved by whether I remain on the Board or not. Legislators,  
20 educators, will still look for solutions. There is a past, a  
21 present and a future.

22 Only -- once they gave the students "new math", then  
23 they found that that didn't work and we have a whole generation  
24 of kids who cannot add or subtract. So they went back to "old  
25 math". Now we have a combination of both in our new textbooks.

26 Once we taught reading by phonetics. Then phonetics  
27 went out the window, and it was sight reading. That wasn't  
28 working either, so now we're back to a combination of both.



1 One district says that it must go to year around school.  
2 Another district is closing schools right and left. And the  
3 districts are right next door to each other.

4 And on the subject of year around schools, is it not  
5 ironic that we talk about going year around, and yet we lock up  
6 our schools at 3:00 P.M., and then we ask the community for  
7 support? Why not open our schools to the community from 6:00  
8 A.M. to 6:00 P.M.? Why not offer badly needed day care centers  
9 for working mothers? I know that's one of your concerns. Senior  
10 citizen centers, playgrounds. We have communities crying for  
11 space. Parks and Recreation could work with schools and get  
12 children off the streets.

13 There is so much to be done, and that's why I am still  
14 trying. If I am guilty of anything, and I am guilty of caring  
15 too much and working too hard to try to give the immigrant  
16 student, the minority student, the disadvantaged student, the  
17 handicapped student, and all of the other students the tools they  
18 need to make the American dream a reality.

19 Why else am I here? It is not a political issue. It is  
20 an educational issue. Children are not Democrats or Republicans.  
21 They are children who need the best education that Democrats and  
22 Republicans and Independents can give them.

23 All of the organizations that support me know me. All  
24 of those who monitor the Board meetings every month find no fault  
25 with me.

26 All of these organizations who oppose me I have never  
27 met; I have never talked with; I have never seen any of these  
28





gentlemen who spoke against me at any Board meeting or any place else.

I do not discount their dedication. People of good will can disagree. They have their right to express their perceptions. I have every right to express mine. But I would hope, even though our minds may not meet, our hearts can still be neighbors because we all want the same thing: the best education for all children.

And finally, I will end with an apology. I apologize for taking up so much of your time and the time of the others waiting to be reconfirmed. But this issue has also taken up a lot of my time.

I thank you for your consideration, for your attention, and I hope for your vote.

CHAIRMAN ROBERTI: Thank you, Ms. Papadakis.

Are there any questions or observations from the Committee?

Do I hear a motion?

SENATOR CRAVEN: Move.

CHAIRMAN ROBERTI: Senator Craven moves confirmation to the Floor.

Senator Mello on the motion.

SENATOR MELLO: Mr. Chairman and Members, first let me thank the Committee for allowing this hearing to be put over one week from last week. It gave me a chance to contact every school district in my district as well as talk to a lot of individuals and organizations who have expressed an opinion on Ms. Papadakis'



1 confirmation. I also checked with some of the votes up here on  
2 the State Board of Education.

3 First of all, the results in my district were surprising  
4 to me, and I think they're not different from what they are  
5 throughout the state. Because, as was pointed out, since June  
6 30th, 1987, the bilingual law of California was sunsetted, and  
7 we've been operating under the mandates of the highest court in  
8 the land, the Supreme Court of the United States, Lau versus  
9 Nichols, which requires that we have a bilingual education for  
10 those persons who can't speak English or who have limited English  
11 proficiency.

12 But what is happening, and I'm going to give you some  
13 details, throughout the four counties that I represent, there are  
14 a lot of problems that are happening since the suspension of the  
15 California law. There's this so-called greater flexibility that  
16 apparently people want. And they're still getting paid, mind  
17 you; they're getting paid the money for bilingual education.

18 The school districts now have the authority to  
19 credential the teachers rather than formerly it was the State  
20 Commission on Teacher Credentialing, which meant a higher  
21 standard for people to teach in classrooms.

22 The biggest thing, I think, that's happening is that  
23 Gilroy Unified School District, since the law was sunsetted, they  
24 are now allowing the class sizes to increase beyond what was the  
25 former law of ten students requiring a class. Now it's anything  
26 over that: twelve, fourteen and higher.



1 Morgan Hill Unified School District, they say they have  
2 more flexibility in determining when to establish classroom  
3 construction and the pupil composition of that classroom.

4 And Calaveras School District, they're cutting way back  
5 on the aids that are used in the classrooms. They're cutting  
6 back on other classes, but more severe in bilingual education  
7 than they are in their other classes.

8 San Juan Union Elementary, they feel that the students  
9 will be mainstreamed more quickly. They'll only spend a short  
10 time in bilingual class, and then they'll move on into the  
11 regular classes in the school, where before, they had to meet a  
12 certain threshold before they were allowed to be put into other  
13 classrooms.

14 In Monterey County, the Office of Education, they  
15 overview the programs in Monterey County. They have eased up on  
16 -- the impression I was under, I thought with the money flowing  
17 to the districts, and Lau versus Nichols being in effect, they  
18 would just maintain the status quo and do what they've been  
19 doing. But they're not. Now, without the State mandate, they  
20 are cutting back. And Monterey County, by working towards  
21 obtaining a bilingual waiver, has eased up the pressure for using  
22 teachers that fall below the level. They have a less mixed  
23 classroom compared to the former two-thirds limited English  
24 speaking with one-third.

25 Alisal School District is only requiring students to be  
26 in the mixed bilingual class for one class per day, rather than  
27 the many classes that were there formerly when they were required  
28







1 to provide bilingual education. They did it in most of the  
2 classes instead of now, they feel they're complying just doing it  
3 in one class.

4 To me, it's really a sad situation. And what I learned  
5 from checking on the votes over at the State Board of Education,  
6 there's no question that Angie Papadakis is the leader in trying  
7 to do away with bilingual education in her inflexible position.

8 Some of the votes that she stated last week, that all  
9 the School Board voted the same, well, they did on the policy,  
10 but when it came to voting on the bills, like I talked to  
11 Mr. Mehas yesterday from the Governor's Office, and  
12 Mr. Blankenship, they were trying to bring about a compromise,  
13 and there were some amendments being proposed. But according to  
14 the record, Ms. Papadakis voted against, where the rest of the  
15 Board supported the bill as amended. It was their final position  
16 they would support AB 2813 and AB 37 as amended, and apparently  
17 she's the only Member of the State Board of Education to do that.

18 I really feel, as I stated last week, we are a nation  
19 and a state of mixed ethnic groups. I think the richness of  
20 being made up of so many different ethnic groups, all working  
21 together to make our state great, the fact that we have so many  
22 people with language deficiencies even makes it more important  
23 that we -- we're not getting what we're paying for right now in  
24 California.

25 But it's important that we provide a bilingual education  
26 with the priority being for people to learn English, become  
27 proficient in English.  
28



1 But right now, what I found out and I'm sure that if we  
2 did a survey throughout the state it would be the same thing,  
3 that schools are cutting back, the State mandates are not there.  
4 They are changing. The teacher certification is different; the  
5 size of the classrooms are different. The fact that the  
6 requirement of a bilingual class is only occurring for a short  
7 period of time, and I don't feel a bit happy about what's going  
8 on.

9 For that reason, Senator Craven, I will not only vote  
10 against your motion --

11 MS. PAPADAKIS: Senator Mello --

12 SENATOR MELLO: Well, just a minute.

13 Senators should have the ability to express themselves.  
14 I never interrupted you when you were talking. As I told you in  
15 the hall two days ago, that's one of your problems, your not  
16 being able to listen to the other side.

17 I was going to tell my colleague, Senator Craven, my  
18 position on this important matter. And that is, I will vote no  
19 on your motion. I will even vote against moving her to the Floor  
20 without a recommendation.

21 And what I would urge is, if our caucus and Members of  
22 the Floor feel strong enough that they want to vote on  
23 Ms. Papadakis, I informed Senator Roberti that I would not oppose  
24 his motion to withdraw her name from our Committee and take it up  
25 on the Floor.

26 But really in good conscience, I cannot vote for this  
27 person, not because of her own personal character, but because of  
28



1 her philosophy, because of the way she has gone on in a way that  
2 is really working against the thousands of people who are  
3 unrepresented in our state who are striving to become good  
4 citizens, to become part of our society by being proficient in  
5 English.

6 It's a shocking state of affairs that we have here in  
7 California.

8 Thank you.

9 CHAIRMAN ROBERTI: Thank you, Senator.

10 Senator Craven.

11 SENATOR CRAVEN: Well, Senator Mello, I appreciate what  
12 you have said, and you have done a lot of research to accumulate  
13 the substantiating information to shore up your particular  
14 argument.

15 I would say that because you may well differ with the  
16 majority of your colleagues in the Senate is no reason I don't  
17 want you to be a Senator. I think you have every right to  
18 disagree and to be in the minority.

19 And I say that simply because Ms. Papadakis should have  
20 the same rights that we enjoy. And if she chooses to march to a  
21 different drummer, I think that that's her prerogative.

22 How many people are on the State Board of Education?

23 MS. PAPADAKIS: Eleven.

24 SENATOR CRAVEN: Eleven. Well, you know, on the best  
25 days she ever had, she never was able to bowl over the other ten,  
26 I don't think. And I think if she's a threat, then she is a very  
27 latent threat at best.  
28







1 I don't think she is. I think she's a person who takes  
2 the job very, very seriously, does not disagree with the concepts  
3 and the objectives, but has in her mind a thought that a  
4 different course would provide a better result. She's pursued  
5 that rather diligently. She's forthright. She's honest. She's  
6 sincere.

7 What more could you ask of any individual?

8 SENATOR MELLO: Well, Senator Craven, if I can respond  
9 briefly to that.

10 People can march to a different drummer, but the  
11 question that we're discussing here is the law of the Supreme  
12 Court of the United States of America. We are a nation of laws.  
13 And Lau versus Nichols is the law of the United States of America  
14 that we're all bound by.

15 And what I'm saying very strongly is, through her  
16 record, she is trying to come up with ways to circumvent the law  
17 that we have to all carry out. That's what I think is far  
18 different than having a different philosophy or marching to a  
19 different drummer.

20 SENATOR CRAVEN: I don't know well enough whether she's  
21 trying to circumvent anything or not.

22 I'm sure that that Board is monitored, if you will, and  
23 advised by legal counsel. And I'm confident that counsel would  
24 not allow her to do something that smacked of any degree of  
25 illegality.

26 I would say, however, that she is not the first person  
27 to look for some way to circumvent anything. I have a feeling  
28



1 that I live in that milieu every day of my working life. And I  
2 don't find that to be any bit unusual at all.

3 CHAIRMAN ROBERTI: Thank you, Senator.

4 My own position on Ms. Papadakis is, I would like,  
5 because of the many views of both your capabilities and many of  
6 your contributions on the Board, to cast a vote for you. It's a  
7 close call in my mind.

8 However, I do not think I'm prepared to vote today. I  
9 think bilingual education is too terribly important.

10 I do not agree with all the comments that your opponents  
11 on bilingual education made about you. For example, I tend to  
12 think that the parental consent aspect, that you have the better  
13 of the argument.

14 However, your enthusiasm in implementing bilingual  
15 education, I think, is a little wanting. I don't think that's a  
16 character flaw. I just think it's a difference of opinion on how  
17 to go about this.

18 I also tend to think that there are many local  
19 jurisdictions in California which drag their feet in the  
20 implementation of the program, or the willingness to have the  
21 program, and too much reliance on local jurisdictions in this  
22 area, especially when you're dealing with what amounts to race  
23 relations -- I don't know how else to put it -- in communities  
24 indicates that there has to be a larger jurisdiction, in this  
25 case the State, which has paramount interest over and above that  
26 of the local jurisdictions. That happens to be my feeling and my  
27 philosophy.  
28



1           One the parental consent aspect of it, quite frankly I  
2 do not understand the points that your opponents have made, that  
3 it's far better to get the consent afterwards rather than before.

4           All that said and done, on a very close case -- I have  
5 agonized over this -- I think you are an outstanding woman as far  
6 as your contributions to the community and your contributions to  
7 the Board. Your philosophy is not necessarily mine, but I don't  
8 think I can vote for your confirmation.

9           However, I will bring the issue up before the Senate  
10 Democratic Caucus before your terminate. Senator Petris has been  
11 repeatedly on the phone to me to do that. In respect to his  
12 wishes and my own feelings on the matter, I will bring it up to  
13 my caucus. If there are sufficient numbers of people who want to  
14 hear your confirmation on the Floor -- that doesn't mean  
15 necessarily a majority of the Democrats because I don't think you  
16 have that; I think you have all the Republicans -- then I will  
17 entertain that. I won't promise it, but I want to be open-minded  
18 on the thing, and I want to be fair to you as far as the  
19 implementation of this confirmation, and also fair to the wishes  
20 of my colleagues who have contacted me.

21           All that said, it takes 27 votes to confirm a Member of  
22 the State Board of Education. That's a very, very tall order for  
23 anyone who is controversial, as you are. Most confirmations take  
24 21 votes, which is not quite as difficult. But 27 votes, that  
25 strikes me as very difficult, even if you should be reported on  
26 the Floor.

27  
28





1           So, I will entertain Senator Craven's motion today. I  
2 will not vote for it.

3           However, we will bring the matter up before the Senate  
4 Democrats. I suspect there are some in our caucus who may have a  
5 different viewpoint, and I will entertain their position.

6           In my mind, it's a close case. And I tend to think your  
7 enthusiasm in implementing bilingual education is lacking.

8           I'm not saying that in any aspect of saying I feels it's  
9 a character flaw or anything of that nature. It's just the  
10 impression that I have.

11           Yes, Senator Craven.

12           SENATOR CRAVEN: Mr. Chairman, thank you for your  
13 expression as well as the fairness which you exhibit.

14           Presumptively, this may well tie off in a two-two vote.  
15 If that be the case, Mr. Chairman, may I assume or perhaps move  
16 that the matter be referred to the Floor without recommendation?

17           CHAIRMAN ROBERTI: You can. I won't vote for that one,  
18 either. I want to talk to the caucus Members.

19           SENATOR CRAVEN: You wish to hold it until --

20           CHAIRMAN ROBERTI: Right now, I would say a motion to --

21           SENATOR CRAVEN: Well, we do have a regular motion, Mr.  
22 Chairman.

23           CHAIRMAN ROBERTI: We have a motion. That's your  
24 motion, right?

25           SENATOR CRAVEN: Yes, sir.

26           CHAIRMAN ROBERTI: I think we have to take that motion.  
27 It strikes me as the proper thing to do.  
28



1           The deadline date for Ms. Papadakis is what? Friday.  
2       So we will meet in caucus on Thursday, and we'll discuss this and  
3       whatever else is before us on matters of concern.

4           Senator Craven's motion is before us. Secretary will  
5       call the roll.

6           SECRETARY WEBB: Senator Ellis.

7           SENATOR ELLIS: Aye.

8           SECRETARY WEBB: Senator Mello.

9           SENATOR MELLO: No.

10          SECRETARY WEBB: Senator Petris. Senator Craven.

11          SENATOR CRAVEN: Aye.

12          SECRETARY WEBB: Senator Roberti.

13          CHAIRMAN ROBERTI: The vote is two to one; the motion  
14       fails.

15          It can be taken up again in the next meeting if the  
16       Rules Committee does meet between now and Thursday.

17          SENATOR MELLO: Senator, as I indicated, I would not  
18       oppose, if he makes the motion on the Floor tomorrow or Friday to  
19       withdraw her confirmation from this Committee, I think as Pro Tem  
20       he would have the privilege of doing that.

21          SENATOR CRAVEN: Well, I recognize I have the privilege  
22       of doing it. Philosophically I don't particularly like that  
23       idea, to be very honest with you. I've never supported the  
24       withdrawal of something from committee because I think it has a  
25       tendency to vitiate the committee system.

26          CHAIRMAN ROBERTI: I agree.

27

28



1 I think if the Chair withdraws after talking to the  
2 Members, that's one thing.

3 SENATOR CRAVEN: That's different.

4 CHAIRMAN ROBERTI: With hostile withdrawal, it's quite  
5 something else.

6 SENATOR CRAVEN: It is very definitely quite something  
7 else.

8 CHAIRMAN ROBERTI: You could give the impression, you  
9 know, that we withdraw at random, and I wouldn't want to do that  
10 either.

11 SENATOR CRAVEN: Well, Mr. Chairman, let me ask a point  
12 of inquiry.

13 If your Democratic Caucus meets tomorrow, and you bring  
14 this matter to them, and they make a judgment, is it then  
15 possible that you could reconvene the Rules Committee --

16 CHAIRMAN ROBERTI: That's what I would --

17 SENATOR CRAVEN: -- for an action?

18 CHAIRMAN ROBERTI: That's what I would plan to do,  
19 Senator.

20 SENATOR CRAVEN: Very well.

21 Thank you, sir.

22 CHAIRMAN ROBERTI: If there's some movement in the  
23 caucus which indicates that there is reason to have a vote on the  
24 Floor because of either intense feelings for a vote on the Floor  
25 or possibly to confirm, then I would say we would withdraw.

26 Right now, I'm not prepared to do that.  
27  
28





1           SENATOR CRAVEN: Very well. We will await the action of  
2 your caucus.

3           CHAIRMAN ROBERTI: The motion has been made; the motion  
4 failed.

5           Thank you, Ms. Papadakis.

6           MS. PAPADAKIS: Thank you.

7           Would my appearance be required tomorrow?

8           CHAIRMAN ROBERTI: No. If you want to be in the  
9 building, maybe, that would be fine. You don't have to be before  
10 us because --

11          MS. PAPADAKIS: Two weeks I've been here.

12          CHAIRMAN ROBERTI: It's not necessary that you be here.  
13 If you choose to be --

14          MS. PAPADAKIS: Senator Roberti, may I please clear up  
15 one point that is provable?

16          CHAIRMAN ROBERTI: Please do, yes.

17          MS. PAPADAKIS: I did not -- the entire Board voted to  
18 oppose AB 37, and a letter from the entire Board went to the  
19 Governor. I was not a Lone Ranger with no Tonto. I was not.  
20 The entire Board voted.

21          On AB 2813, that was the one time I was absent when that  
22 came to a vote on the Board. It was in July, and I was absent.  
23 And Gloria Hom cast the only vote of opposition, and I think she  
24 cast it for me, in truth. But I was not even there to vote on  
25 that, on AB 2813, because I couldn't. I had relatives visiting  
26 from Greece at that time, and I could not leave them.



1 As far as the regulations going down to --- that  
2 credentialed teachers --

3 CHAIRMAN ROBERTI: Let me ask a question.

4 MS. PAPADAKIS: AB 2813.

5 CHAIRMAN ROBERTI: That is when the Board took a  
6 position on AB 2813?

7 MS. PAPADAKIS: AB 2813, they took a support if amended  
8 position, and I voted -- I would have, had I been there, I would  
9 have voted no, but I wasn't there. And so the information is  
10 wrong because I was not there. Gloria Hom voted the only --  
11 David is here.

12 Remember that?

13 I was not present.

14 The one other time, on AB 37, the entire Board sent a  
15 letter to the Governor in opposition to AB 37, the entire Board,  
16 not I alone.

17 As far as the credentialing of teachers is concerned,  
18 requiring credentials, that is with the Attorney General's Office  
19 for an opinion. The State Board of Education is still  
20 deliberating about how that is going to be handled.

21 The CTC wants credentials, for all people teaching  
22 bilingual education to be credentialed. They also want anyone  
23 who is teaching English to an LEP student to be credentialed with  
24 the language development specialist credential. And both of  
25 these -- and that is how they are interpreting the sunset  
26 regulations.

27

28



1           The State Superintendent and the State Department of  
2 Education have an opposite view, altogether different view. They  
3 say that no credentials are required now, that there is no longer  
4 a regulation -- no longer the bill.

5           And so, it has gone up to the Attorney General for an  
6 opinion.

7           I had nothing to do with that. The Attorney General  
8 will decide which way this is going to fall. Does the CTC have  
9 the authority to credential teachers, or is that the right  
10 interpretation of the sunset regulations? Or, is the  
11 Superintendent and the State Department of Education correct on  
12 this?

13           The State Board of Education is waiting for the Attorney  
14 General.

15           CHAIRMAN ROBERTI: We appreciate that.

16           I think the whole thing is the overview and the  
17 importance we view a position on the State Board of Education,  
18 especially not only in implementing policy, but in making  
19 recommendations as well. It is important, although you don't  
20 have the final decision in so many areas of education, including  
21 the legal aspect.

22           Thank you, Ms. Papadakis.

23           MS. PAPADAKIS: Thank you.

24           CHAIRMAN ROBERTI: We will recess for ten minutes, and  
25 we'll reconvene at 3:25.

26           (Thereupon a brief recess was taken.)  
27  
28





1 CHAIRMAN ROBERTI: Back to appointments.

2 SENATOR CRAVEN: The next item on the agenda is a  
3 confirmation hearing regarding Betty A. G. Cordoba, Member,  
4 Public Employment Relations Board.

5 Ms. Cordoba, if you would please come up and tell the  
6 Members of the Committee, the President Pro Tem, why you feel  
7 you're qualified to fill this position.

8 MS. CORDOBA: Senator Roberti, Senator Mello, Senator  
9 Ellis, Senator Craven, staff persons, distinguished guests in the  
10 audience, thank you very much for this opportunity to be here  
11 today in regards to my confirmation to continue being a Member of  
12 the Public Employment Relations Board.

13 I am very honored to have been chosen by Governor George  
14 Deukmejian to be the fifth and last appointee of Governor  
15 Deukmejian in May of 1987 to be appointed to the Public  
16 Employment Relations Board.

17 I have been a public employee all my adult life, and I  
18 probably don't need to tell you that's quite a few years, almost  
19 forty. I have been a public school teacher in the Los Angeles  
20 Unified School District.

21 In addition to being a public employee, I am a product  
22 of the public schools. I attended public schools in Monrovia,  
23 California; Washington, D.C.; the Bronx and Brooklyn; New York  
24 City.

25 I came west after graduation from Erasmus Hall High  
26 School in Brooklyn, New York, in 1945, and I attended the  
27 University of Redlands, near San Bernardino, in the town called  
28



1 Redlands, my first two collegiate years, and went on and spent my  
2 last two years at the University of Southern California, where I  
3 received my Bachelor's Degree, my Bachelor of Science Degree in  
4 Education in 1949.

5 I began my teaching career in the L.A. Unified School  
6 District in 1949, and taught all the way until 1983, with a few  
7 years off -- sabbaticals; going to college sabbaticals; traveling  
8 to Europe sabbaticals; and just a few times, leaves. One was a  
9 mandatory health leave that I took because I had had some  
10 surgery.

11 I was a classroom teacher, a mentor teacher, an  
12 in-service class instructor, a demonstration teacher, and I also  
13 taught students how to teach by being a master teacher. I  
14 trained students from both Cal State University, Northridge, and  
15 the University of Southern California, my alma mater.

16 I served on two district committees in the L.A. School  
17 District: the Early Childhood Education Committee and the Vice  
18 Principal Selection Committee. But my most important committee  
19 assignment when I was an L.A. Unified School District teacher was  
20 one of two representatives from Professional Educators of Los  
21 Angeles, where I served on the Certificated Employee Council.  
22 This was in the Winton Act days. The actual years of my service  
23 there were 1970-1972. And I served two years there on that  
24 council, which at that time the correct terminology was "meet and  
25 confer," not "meet and negotiate," but "meet and confer."

26 There were nine members on that council. The majority  
27 was clearly United Teachers of Los Angeles; they held five seats.  
28



1 But there were four teacher organizations on that council. One  
2 other organization had one seat, that was a group called SETO.  
3 Another group was CTA-LA, and they had one seat. My group,  
4 Professional Educators of L.A., had two seats, and UTLA, which  
5 was then and is now quasi AFT and NEA. They did have the  
6 majority, five seats.

7 However, we were there on that council representing  
8 7,000 teachers in Los Angeles, giving input, being a checks and  
9 balances, and being a participant in the process. So when the  
10 Rodda bill became a law, legislatively speaking, after Senate  
11 Bill 400 by Senator Moscone had been vetoed in 1974 by  
12 then-Governor Reagan, in 1975, the Rodda bill came along, and  
13 that's what mandates a sole bargaining agent.

14 The membership of my organization took a vote and said  
15 that we must testify against the Rodda bill because, by the  
16 mandating of a sole bargaining agent, then we were going to  
17 become disenfranchised.

18 I will leave that subject for just a moment and come  
19 back to it a little bit later.

20 In his infinite wisdom, Governor Deukmejian has  
21 appointed a very balanced PERB Board, Public Employment Relations  
22 Board. I say that very distinctly because a few people have  
23 thought that I am serving on the PERS Board. It's the PERB  
24 Board, P-E-R-B, as I'm sure you Senators are very fully aware.

25 On our PERB Board, we have five members. Our Chairlady  
26 is serving her fifth year there. She started out as an  
27 Affirmative Action Officer and then became a Deputy Director at  
28







1 the Department of Personnel Administration. She's extremely  
2 capable and knowledgeable, and I'm enjoying serving with her  
3 immensely.

4 On that PERB Board, there are two attorneys. They both  
5 have formerly been in the Attorney General's Office. One of the  
6 two has also, in addition to being in the Attorney General's  
7 Office, has served as the Adjutant General for the National  
8 Guard. I think you'll be seeing him next month, but I'll let him  
9 rest his own case.

10 The fourth PERB Board Member is named William Craib.  
11 And if you'll excuse my jesting, I say it in love and kindness,  
12 he and I don't ride the same elevator at the same time because  
13 he's a big fellow, and I'm a big gal.

14 CHAIRMAN ROBERTI: We know him.

15 MS. CORDOBA: We kid about it all the time. He's very  
16 affable, and we have a very nice relationship.

17 He, in Governor Deukmejian's wisdom, is the former  
18 President of the California State Employees Association.

19 Then Governor Deukmejian's fifth appointment, yours  
20 truly, is the former Vice President of the Nonstriking Teachers  
21 of Los Angeles.

22 So, you see the wonderful balance that we have: the  
23 former union president; the former nonunion vice president; the  
24 two attorneys; and the lady from the DPA. We're an excellent  
25 Board. We work well together.

26 We all have two attorneys. We don't share just two; we  
27 all have two attorneys, making a total of 10 for Board Members,  
28



1 but there are additional attorneys at PERB in addition to the 10  
2 that the Board Members have.

3 It cannot be said that I am antiunion, because I am now  
4 holding up the evidence to disprove that fact. This is my  
5 original initiation fee of \$632.50, and this is my current  
6 membership card, \$32.50 a quarter, in AFTRA, the American  
7 Federation of Television and Radio Artists.

8 I retired from teaching in 1983. In 1985, at the behest  
9 of three very close friends, one of whom is named Roberta  
10 Weintraub, a very distinguished member of the L.A. Board of  
11 Education, I was very, very seriously encouraged to pursue show  
12 business. For some reason, they thought I was funny, and they  
13 thought that I should do something in show business.

14 So, I pursued it for about a year and a half. I was in  
15 Rodney Dangerfield's "Back to School," and I'd like that to be  
16 part of the record. I thought that was appropriate for a former  
17 teacher who taught 30 years in L.A. I just had a lot of fun with  
18 it, but it wasn't really progressing very well, so I thought, oh,  
19 maybe if I had on my resume the fact that I was an AFTRA member,  
20 maybe I'd get called for better parts.

21 And so voluntarily, voluntarily -- no coercion from  
22 anybody; strictly my own choice -- in July of 1986, six months  
23 before I ever applied to be a PERB Board Member, I became an  
24 AFTRA member.

25 So I think that, if you'll pardon me, takes care -- oh,  
26 and my membership number in AFTRA is: 169081, and the proof is  
27 here on the table.  
28



1 After a very horrendous teacher strike in the Los  
2 Angeles Unified School District, which is very unique -- we have  
3 30,000 teachers -- after that strike, the Certificated Employee  
4 Council was composed where I served --

5 CHAIRMAN ROBERTI: Are you still active in PELA?

6 MS. CORDOBA: No, I'm glad you brought up that point,  
7 Senator.

8 I resigned. I wrote an official letter on June 23rd,  
9 1987, to Professional Educators of Los Angeles, Professional  
10 Educators Group, and the National Association of Professional  
11 Educators, stating that since I was going to be going on to the  
12 PERB Board, July 15th, I didn't feel that I should any longer be  
13 a member, and my resignation letter is in their file. I told  
14 them to please hang on to it; they might need to, you know, come  
15 up with it and prove that fact.

16 I have also been active in my sorority alumni  
17 association. It supports the Crippled Children's Hospital of  
18 Richmond, Virginia. I have served as the Education Chairman for  
19 the Los Angeles County Chapter of Freedom Foundation. That is an  
20 organization that sends students and teachers on trips to the  
21 East Coast of the United States to visit the historical sites.  
22 And they come home, the teachers and the students, absolutely  
23 enraptured at what they've seen and what they've experienced  
24 visiting those places. I went on one of those trips myself. I  
25 took the Civil War Battlefield trip, and I found it extremely  
26 informative and interesting.

27  
28







1           Now, I -- oh, my greatest honor, I'm sorry -- well, I  
2 guess I would put it on a par with being put on the PERB Board by  
3 Governor Deukmejian -- but in addition to that, I have been  
4 appointed by President Ronald Reagan to the National Advisory  
5 Council on Women's Educational Programs. I began that assignment  
6 in July of 1982, and my 18 other members there nominated and  
7 elected me Chairman to serve for the very first year that we new  
8 Reagan appointees were put on. And so, I was Chairman there from  
9 July of '82 until June of '83.

10           Now I'd like to tell you a little bit about the people  
11 who are supporting me. The California School Boards Association  
12 has given me their support. The Small School Districts  
13 Association has given me their support. And I have over 230  
14 letters from educators who share my viewpoint, and also educators  
15 who are staunch members of the teachers' union that I have taught  
16 with. I have their letters with me. I'll pass them out to you a  
17 little later. Their names are: Dr. Patricia Streeter; Evelyn  
18 Garris, and Dolores Olson.

19           CHAIRMAN ROBERTI: We've seen some of them.

20           MS. CORDOBA: Yes, just those three that I have taught  
21 with.

22           Dolores Olson is married to Richard Olson. And for the  
23 record and for your interest, you might like to know that Richard  
24 Olson is the grandson of former-Governor Culbert Olson, who  
25 served from, I believe, 1939-1943, here, as the Governor of  
26 California.



1 I also have endorsement letters from principals,  
2 superintendents, assistant superintendents, county  
3 superintendents of schools, a director of classified personnel, a  
4 Congressman, a member of the L.A. County Board of Supervisors, a  
5 member of the State Board of Equalization who is the Vice  
6 Chairman of that august body, a Los Angeles City Councilman, a  
7 member of the L.A. Board of Education, Mrs. Weintraub that I  
8 previously referred to, and other school board members, a special  
9 assistant to an Assistant Secretary of the Department of  
10 Education, an assistant in the Small Business Administration,  
11 attorneys, doctors, a professor, businessmen and business owners,  
12 a civil engineer, a financier, farm owners Sig Christierson and  
13 Tom Merrill in the Salinas area, and John Metzger in the Gonzales  
14 area. And last, but by certainly no means least, many housewives  
15 in the State of California.

16 My case record will prove to yourselves and to anyone  
17 who's interested that I have been and will continue to be a fair  
18 and impartial member of the Public Employment Relations Board.  
19 My number one priority is to obey the law and to do the right  
20 thing by the many, many students that we have in the State of  
21 California.

22 As prosecutors and public defenders become judges, they  
23 have to strip themselves of those prior roles, become neutrals,  
24 to be good judges. Mr. Craib is no more pro-union in his  
25 deliberations than I would be pro-district. He and I have been  
26 together in our conclusions and our decisions on many cases.  
27 That's Mr. Craib, the former union president.



1 And I would like to state that there are those who would  
2 say that I'm antiunion and I never could be against a school  
3 district. Well, that isn't so. On several occasions so far, the  
4 facts and the law said the district was wrong, and so I ruled in  
5 my decision at PERB against the district.

6 I'd like to tell you a little bit about the cases that I  
7 have been participating in since I have been at PERB. I have --  
8 I came to PERB in July, the middle of July -- and I'm almost  
9 through -- but my attorneys did not come on board until the  
10 beginning of November. I did rule on a few cases between the  
11 middle of July and the first of November.

12 However, the bulk of my case decisions have been in the  
13 months of December and November: 16 cases. Nine of them were  
14 the district pitted against labor or the union members. In  
15 those, I ruled pro-district three times, pro-labor three times,  
16 and the remaining three were not really clear-cut victories for  
17 either because sometimes we affirmed the unfair labor practice  
18 charges and sometimes we reversed. So that was kind of a  
19 potpourri of those other three, were kind of a potpourri as far  
20 as the final decisions were concerned.

21 There were four cases that were individuals versus  
22 unions. I ruled three times for labor and once for the  
23 individuals. There were two cases that were individuals versus  
24 management. that time I ruled both cases for management. I  
25 think probably all of you Senators would have done the same  
26 thing. And the very last case, the 16th case that I ruled on,  
27 was -- excuse me, I just need to refer to my notes for this, I'm  
28







1 sorry -- was a case where there was a tie. I broke the tie. I  
2 wrote my own concurrence.

3 Excuse me, I want to get the bottom line on that because  
4 I want to get it exactly correctly. Excuse the delay.

5 CHAIRMAN ROBERTI: It's quite all right.

6 MS. CORDOBA: I'm very sorry. You get a little bit  
7 nervous when you sit up here in front of such an august body.

8 SENATOR CRAVEN: That's show biz.

9 MS. CORDOBA: Oh, dear, I'm so embarrassed. It's sort  
10 of like I have a mental block on this case. I have all the right  
11 papers; it's just that -- here we are.

12 Well, it's a very long, involved case under one of the  
13 three statutes. You know, we work with EERA, the Dills Act which  
14 used to be called SEERA, and HEERA. And this was under HEERA.  
15 And it's a rather very long and involved case, but I broke the  
16 tie in my ruling and because -- excuse me. I'll just take a  
17 moment or two.

18 We have the philosophy in this case that everybody  
19 deserved their day in court, and so we ruled that, yes, they had  
20 established a prima facie case, and so the charging party had  
21 said that the general counsel had exceeded his responsibility or  
22 his obligation, that the evidentiary determinations should be  
23 made only by the hearing officer. So that was how we ruled in  
24 that particular case.

25 So you see, of those 16 cases, that there's no  
26 discernable trend. I have ruled as often for the union as I have  
27 for management.  
28



1 I can't believe I'm through, but I believe that I almost  
2 am through.

3 CHAIRMAN ROBERTI: Senator Craven.

4 SENATOR CRAVEN: While you're on that subject, you said  
5 during the tenure, your tenure of service, you have handled or  
6 been involved with 16 cases; is that correct?

7 MS. CORDOBA: Yes.

8 SENATOR CRAVEN: And you detailed the results, which  
9 kind of broke down quite evenly.

10 Was there any occasion during the course of those 16  
11 judgments rendered by the Board wherein you were in the minority?

12 MS. CORDOBA: No. Out of the 16 cases, 13 were  
13 unanimous decisions, 3-0, and none of the cases was I in the  
14 minority. Of the three that were not part -- out of 16, 13  
15 decisions were unanimous; that meant 81 percent. In one, I  
16 joined with Mr. Shank and the majority, and Mr. Porter did concur  
17 but didn't join the decision over a technical concern over  
18 adopting the ALJ's decision.

19 I joined the majority in one case where there was one  
20 dissenting party, but I was with the majority. And I joined the  
21 majority authoring concurrence, and that was where two other  
22 people dissented. And the final result of that last case that I  
23 was talking about so long -- I'm sorry, please forgive me -- was,  
24 I broke the tie vote by ruling in favor of the union, writing my  
25 own separate concurrence.

26 And I'd like to close by saying that my decisions  
27 resulted as they did in the natural course of following the laws  
28



1 enacted by the Legislature: EERA, formerly SEERA, and HEERA.  
2 SEERA is now called the Dills Act.

3 We followed the precedents of prior PERB decisions, and  
4 we also followed the laws of the courts of California and the  
5 United States.

6 I mentioned that there was no discernable trend. My  
7 attorneys have reviewed my record, and each case has been decided  
8 on its own merits and ruled upon accordingly, and this we will  
9 continue to do for my entire tenure on the Public Employment  
10 Relations Board.

11 I'm very lucky to have two very astute, very scholarly,  
12 very capable, very experienced attorneys, and I'm very pleased to  
13 be working with them at the Public Employment Relations Board.

14 Mr. Chairman, may I ask a very, very special favor of  
15 you.

16 My remarks are now concluded at this point in time. A  
17 gentleman who's here to speak for the Small School Districts  
18 Association would like to come right up and make his brief  
19 remarks and then leave, because he must attend -- he's a  
20 superintendent, and he must attend a school board meeting in his  
21 district.

22 CHAIRMAN ROBERTI: We're going to take your proponents  
23 right now, so we'll take him first.

24 MS. CORDOBA: Oh, wonderful. I thank you kindly.

25 CHAIRMAN ROBERTI: The proponents please stand and  
26 indicate to me how many there are. Fine. Maybe the first three  
27 in the first front rows come, and then I'll take the other three  
28 later.







1           Whoever must leave first, is that this gentleman here?

2           MS. CORDOBA: Yes, Greg must leave first, and then there  
3 are four people that must drive to Los Angeles tonight so they  
4 can teach school tomorrow.

5           CHAIRMAN ROBERTI: We can take four of you right now,  
6 then the other two just wait a little minutes and as the first  
7 four testify, you can come forward also.

8           Please indicate your name and who you represent.

9           MR. HEARN: Mr. Chairman and Members, my name is Gregory  
10 Hearn. I am Superintendent of the San Benito High School  
11 District in Hollister, California. I'm here representing the  
12 Small School Districts Association, which consists of over 400  
13 school districts in California, and the Central California  
14 Education Consortium, which consists of 40 districts in Central  
15 California: elementary, high school; junior college and a  
16 district office.

17           We are -- these organizations support Betty Cordoba and  
18 request that you confirm her.

19           As you are probably aware, the case load for PERB is  
20 approximately 80-90 percent education-related cases. Of the  
21 current membership on PERB, the only one with an education  
22 background is Betty Cordoba.

23           Betty, as she has stated, has spent her life in  
24 education and in educational organizations. She is knowledgeable  
25 about the function and the purpose and the nitty-gritty of the  
26 way that public schools operate.

27

28



1           It is our feeling that it is only through those years of  
2 intimate involvement in education that the insights and  
3 understanding of the actual workings of education that are so  
4 necessary to careful deliberation and appropriate decisions on  
5 the part of PERB can be made. And so we feel that someone with  
6 Betty's qualifications is critical to the careful deliberations  
7 of PERB.

8           We also feel that Betty's demonstrated performance shows  
9 the kind of balance and thoughtful approach that she is going to  
10 be taking to making decisions that come before PERB. We are  
11 proud of her performance to date.

12           We strongly support her confirmation, and we urge you to  
13 confirm Betty Cordoba to PERB.

14           Thank you very much.

15           CHAIRMAN ROBERTI: Thank you very much.

16           Next witness.

17           MR. MASON: Mr. Chairman, Senators, I am Richard Mason,  
18 a teacher of 30 years in the State of California, and  
19 particularly in the Los Angeles Unified School District.

20           I've been a master teacher. I've been President  
21 Emeritus of the National Association of Professional Educators.

22           I thank you very much for the opportunity to speak to  
23 you in support of the confirmation of Betty Cordoba to the Public  
24 Employees [sic] Relations Board.

25           I have known and worked with Ms. Cordoba in  
26 organizational endeavors, committee work, for the past 17 years.  
27 Betty Cordoba is one very fine person, and personal qualities as  
28



1 a professional educator, and an outstanding teacher in our public  
2 schools.

3 I wholeheartedly endorse her confirmation to PERB.

4 I would like to mention some of the outstanding  
5 qualities of Betty Cordoba. Her stamina and energy is without  
6 match. She is literally and phenomenally indefatigable, above  
7 and beyond what I observe in others. She is always able to take  
8 the task assignment, work through it, bring it to a logical,  
9 proper conclusion, where tiredness in others could affect the  
10 quality of their work and adversely affect a decision-making  
11 process in the outcome. Her integrity, her fidelity to fair play  
12 and justice, upholding the law, is constant. Her alertness and  
13 thoroughness, and her analytical abilities enable her to truly  
14 see the forest and the trees. She does her homework.

15 Thus, her participation in the decision making will  
16 never be flippant, shallow, or uninformed. Her personal  
17 qualities enable her to work well with other individuals and with  
18 groups. She listens carefully to others to consider all sides of  
19 the issues.

20 She makes decisions not from a predetermined bias, but  
21 is studious, considering the merits of each case or situation,  
22 along and in tandem with the best interests of the people of  
23 California and the applicable laws.

24 All of the above are some of the many reasons that Betty  
25 Cordoba should be a part of the PERB Board.

26 I want to assure this Committee that she will do an  
27 outstanding job as a member, and I sincerely, respectfully urge  
28 you to confirm her to the PERB Board.







1 Thank you very much.

2 CHAIRMAN ROBERTI: Thank you.

3 Next witness.

4 MS. JONES: I'm Dorothy Jones. I am President of the  
5 Professional Educators of Glendale. I am not here representing  
6 the total organization, but here as an individual because I know  
7 Betty and know her to be a capable and responsible person.

8 It will be to the advantage of the educators and the  
9 parents and children of California to have someone on the PERB  
10 Board who understands education, the process, and how we can best  
11 serve the children of California.

12 As a teacher, that has been my only responsibility, is  
13 to make sure that we have good education for all children.

14 I was impressed when Betty was appointed to the National  
15 Advisory Council for Women's Educational Programs by President  
16 Reagan, when she was elected Chairperson of this august group,  
17 but the thing that impressed me the most was the fact that to get  
18 this appointment, she had to be approved by the FBI and the IRS,  
19 and confirmed by the U.S. Senate. If they had the confidence to  
20 believe that she could speak in behalf of the children and the  
21 parents and the educational system of California, so do I.

22 I suggest and strongly support her as a Member of the  
23 PERB Board.

24 Thank you for giving me this opportunity.

25 CHAIRMAN ROBERTI: Thank you very much.

26 Next witness.  
27  
28



1 MS. GALVIN: Senator Roberti and Committee, you'll  
2 forgive me if my voice quavers. Just before I walked in, I got  
3 news of a family member having a stroke.

4 CHAIRMAN ROBERTI: We're sorry to hear that.

5 MS. GALVIN: But I want to put in my word for  
6 Ms. Cordoba.

7 I taught with her in 1961, and we've had a very long  
8 association professionally and socially. I was very fortunate to  
9 quite often get the class which she had had, and there's no  
10 better way to know the quality of the teacher than to receive the  
11 children that she has taught the previous year. They were not  
12 only academically up to par and ahead, they had fantastic work  
13 habits, self discipline, and so on. I knew she had done a  
14 wonderful job with them.

15 I have served on the Education Committee of the Freedom  
16 Foundation of the Los Angeles County branch, of which Ms. Cordoba  
17 was the hardworking, ever working Chairman. And I would say that  
18 I consider her to be intelligent, perceptive, tireless,  
19 absolutely tireless, thorough, objective, fair, impartial, able  
20 to make an impartial decision weighing the facts and knowing the  
21 laws.

22 I think she would bring a unique perception and  
23 experience to the Public Employment Relations Board because of  
24 her 30 years as a public employee. And I think that that Board  
25 and the public employees and the citizens of California would be  
26 well served by the confirmation of Ms. Cordoba to the Board.

27 Thank you for your time.  
28



1 CHAIRMAN ROBERTI: Thank you.

2 Next witness.

3 MS. DOWNING: Mr. Chairman and Committee Members, I'm a  
4 retired school nurse, Dorothy Downing; that is, a registered  
5 nurse.

6 I've known Betty Cordoba for 17 years, beginning with  
7 our several years simultaneously working with the Los Angeles  
8 City Unified School District and serving together in professional  
9 organizations, such as Professional Educators of Los Angeles,  
10 otherwise known as PELA, and PEG, which is the Professional  
11 Educators Group of California, and NAPE, which is the National  
12 Association of Professional Educators, and also with other groups  
13 such as the Freedom Foundation of Valley Forge, which as you no  
14 doubt know, is a nonpartisan organization. And I was a member of  
15 the Education Committee with Betty when she was Chairman of the  
16 Committee.

17 I have found Betty to be a very articulate, brilliant  
18 young lady, vivacious and tireless, and committed to  
19 responsibility. Not only does Betty have a charming personality,  
20 but she is also acutely perceptive of others' needs. Betty sees  
21 multifaceted sides of issues and sizes up situations and responds  
22 quickly, articulately, and with understanding, with fairness, and  
23 with innovative ideas. She gets along well with others, with  
24 everyone she works with particularly. And regardless of their  
25 opposing viewpoints, she's impartial.

26 She is very capable of speaking extemporaneously in  
27 public and shows a deep understanding of human nature. Anyone  
28 who works with her loves her, I'm sure.







1 I believe Betty Cordoba to be an excellent adjunct to  
2 the Public Employment Relations Board.

3 CHAIRMAN ROBERTI: Thank you very much.

4 Next witness.

5 MR. LLOYD: Thank you, Mr. Chairman, Members of the  
6 Committee. My name is Jerry Lloyd. I'm Past President of  
7 Professional Educators Group of California, and I'm also a former  
8 school board member in the San Anselmo Elementary School  
9 District, speaking only as an individual in that regard.

10 CHAIRMAN ROBERTI: Which district?

11 MR. LLOYD: San Anselmo Elementary.

12 I've known Ms. Cordoba for the last twelve years as a  
13 board member of our PEG organization, and I think you may have  
14 had some indication of how she works with the board. She  
15 mentioned different characteristics about each of her current  
16 Board Members on PERB, something positive, which should suggest  
17 to you that she works very well together with the Board, as she  
18 did with us.

19 She was innovative. She had just a pursuit of her  
20 objectives that demonstrated her hard working interest in  
21 accomplishing whatever goals she sets out. But she's a good  
22 listener. She listens to other points of view, and I think that  
23 PEPR needs people like that, who can listen to different points  
24 of view.

25 I'm sure, judging from the opposition, that there's --  
26 you're going to hear points of view that are on the other side.  
27 But I think that it's so important to have people that can  
28



1 discuss issues, bring them up, and hopefully help the Board to  
2 arrive at a decision.

3 So, I strongly urge support for Ms. Cordoba. Thank you.

4 CHAIRMAN ROBERTI: Thank you very much.

5 Next witness.

6 MR. BROWN: Senator Roberti and Members of the  
7 Committee, my name is Doug Brown. I'm Executive Director of the  
8 School Employers Association, a consortium of school districts  
9 and community colleges throughout the state, but primarily in Los  
10 Angeles and Orange Counties.

11 The Association supports the confirmation of Ms. Cordoba  
12 to the Public Employment Relations Board. Her experience in  
13 public education is well documented.

14 In addition, of the 15 Board appointments that have  
15 occurred since 1976, only one other, Virgil Jensen, had any  
16 experience in public education in the K-12 and community college  
17 district arena. And he was appointed only for seven months.

18 The point I want to emphasize here is that the Education  
19 Employment Relations Act, which dominates approximately 80  
20 percent of PERB work, has been clearly and substantially under-  
21 represented in the Board's deliberations. Ms. Cordoba's  
22 understanding of the educational process is vital to the Board's  
23 deliberations in these areas.

24 So in conclusion, only one seven-month appointment prior  
25 to Ms. Cordoba's has had the inside understanding of the impact  
26 of PERB's decisions on public education, and this for 80 percent  
27 of the Board's work.  
28



1 We do support Ms. Cordoba's confirmation, and we ask you  
2 to do that same.

3 Thank you, gentlemen.

4 CHAIRMAN ROBERTI: Thank you very much.

5 Are there any other witnesses in support?

6 MS. SWIFT: Mr. Chairman, Senators, Members of the  
7 Committee, and honored guests of the Committee of the Committee  
8 in this confirmation hearing for Betty Cordoba.

9 I've had the pleasure of knowing Betty Cordoba for  
10 nearly 20 years.

11 CHAIRMAN ROBERTI: Please indicate your name.

12 MS. SWIFT: Oh, pardon me.

13 I'm Dolly Swift. I'm a resident of Northridge, a former  
14 teacher, a former candidate for the Los Angeles Board of  
15 Education, and I've worked with Betty on many different endeavors  
16 in the 20 years that I've known her.

17 I, too, believe that Betty Cordoba would bring something  
18 to the Public Employment Relations Board that no other person can  
19 bring because of her wide knowledge of the educational system.  
20 Knowing that nearly 80 percent of the cases handled there have  
21 something to do with education, I think it's very important that  
22 you have someone on that Board who is familiar with the  
23 educational process.

24 Not only has Betty been a classroom teacher, but she has  
25 had administrative training, but because of her great love for  
26 the children, she never left the classroom because she knew that  
27 her service would be best provided through working with the  
28







1 youngsters in the classroom. If you could meet the parents of  
2 the youngsters that she has taught over these many years, you'd  
3 know what a wonderful teacher she's been and what a wonderful  
4 person she is.

5 Betty's given her lifetime to public service. She's a  
6 dedicated, tireless worker. And her energy is absolutely  
7 boundless. No one in this would could keep up with her. She's  
8 the perfect public servant.

9 She takes an active role in everything in which she  
10 becomes involved, and she gives 100 percent of herself. She's  
11 thoughtful, intelligent, analytical, and she has an evenhanded  
12 approach to conflict resolution.

13 I believe that her energy and her devotion and  
14 dedication to service will enable her to handle the heavy  
15 workload of the PERB Board in a compassionate way, as she has  
16 handled every other assignment in her life. And her outgoing and  
17 courageous approach to everything, her ability to play the  
18 devil's advocate and place herself in other person's shoes, her  
19 tremendous insight into human nature, will enable her to make  
20 well-balanced, fair decisions, regardless of which side she takes  
21 in a particular case, because I know Betty is capable of making  
22 the fair decision based upon what the law requires, regardless of  
23 what her own personal philosophy may have been in the past.

24 And something about Betty that I think you should all  
25 know is, as someone else pointed out, Betty is capable in seeing  
26 the good in everyone. And she's a very forgiving person. She  
27 doesn't carry grudges and remember things that people have done  
28 in the past. She looks for the good in them today.



1 I think that one of the very character traits that Betty  
2 has that will make her a good member of this Board is one that is  
3 perhaps feared by her opponents the most, and that is her  
4 independence. Her ability to step back and rule objectively and  
5 impartially in a dispute, rather than taking a philosophical  
6 position which might not apply in a particular case on which  
7 she's working. She can't be depended on to support the union,  
8 right or wrong, or management, right or wrong, because Betty  
9 cares about doing what's right and what's according to the law  
10 much more than she cares about supporting a particular position.

11 She's a trail blazer, an innovator, and she dares to  
12 stand apart from the crowd. She doesn't always go along with the  
13 majority; although, I see she has in the cases in the PERB Board  
14 up to this point.

15 I believe that her independence will allow her to serve  
16 the people of California well on the PERB Board, and I urge you  
17 to confirm her nomination.

18 Thank you very much, gentlemen.

19 CHAIRMAN ROBERTI: Thank you, Ms. Swift.

20 Are there any other witnesses?

21 Then we will take the opposition. Give me an idea, if  
22 you could stand, of those who want to testify in opposition, just  
23 so I have an idea. Now you can sit down.

24 Please come forward, the first four, I would say. You  
25 can take the seats up here.

26 If you have a plane to catch or something of that  
27 nature, let me know.  
28





1 For the record, let me indicate that Mr. Tom Vortmann  
2 has sent me a letter on behalf of the California Association of  
3 Large Suburban School Districts, and has asked to convey a strong  
4 endorsement of Ms. Betty Cordoba for confirmation as a member of  
5 the Public Employment Relations Board. The Association  
6 represents 34 school districts and over 600,000 students. We  
7 will enter that for the record.

8 MR. FOGLIA: Thank you, Senator Roberti and Members of  
9 the Rules Committee.

10 I am Ed Foglia, President of the California Teachers  
11 Association. On behalf of more than 230,000 educators, I am here  
12 to oppose the confirmation of Betty Cordoba to the Public  
13 Employment Relations Board.

14 Since its creation by the Rodda Act, PERB has earned a  
15 reputation as a tough but fair-minded enforcement body. The  
16 results of its work are clear. California's enjoyed an  
17 overwhelming stability for public sector negotiations.

18 Ms. Cordoba's appointment threatens both the Board's  
19 effectiveness and its objectivity. In simplest terms, PERB is  
20 responsible for making California's collective bargaining law  
21 work, but Ms. Cordoba is an avowed enemy of collective bargaining  
22 and the laws that govern it.

23 Our opposition is well known and long-standing. During  
24 the 1970s, Ms. Cordoba was an outspoken opponent of virtually  
25 every legislative attempt to give public employees the right to  
26 bargain. In committee after committee in this very building, she  
27 argued against the passage of those bills. She leveled some of  
28





1 her sharpest attacks on collective bargaining and unions during  
2 the debates that lead to the passage of the Rodda Act. Ms.  
3 Cordoba labeled such legislation very coercive, totalitarian, and  
4 very dangerous.

5 During interviews with reporters, she espoused her  
6 belief that teacher unions are evil. Time and time again, she  
7 hammered home attacks on public employees and their right to  
8 negotiate. "Collective bargaining and strikes go together;  
9 they're Siamese twins," is one of her more colorful quotes aimed  
10 at alarming Legislators into voting against the bargaining.

11 In the years since the passage of the Rodda Act,  
12 Ms. Cordoba's prejudices have remained strong. For the past 17  
13 years, she has been -- she has served as an officer of a group  
14 that has as their declared goal the destruction of collective  
15 bargaining in California.

16 PERB's strengths derive from its neutrality. California  
17 public employees are willing to take dispute to PERB because they  
18 believe the agency will give their grievances a fair and  
19 impartial hearing.

20 Ms. Cordoba's confirmation to the Board would undermine  
21 that faith, and the result would be catastrophic. Ms. Cordoba's  
22 confirmation could lead to decisions so biased and unfair that it  
23 would increase the duration and intensity of labor-management  
24 conflicts. PERB could quickly lose its credibility as an agency  
25 able to foster creative solutions to conflict.

26 In the school context, our students would be the  
27 ultimate losers from the bitter labor strife that Ms. Cordoba's  
28 confirmation would inevitably produce.



1           There are other grounds as well for all concerned  
2 parties to oppose Ms. Cordoba's confirmation. A crucial agency  
3 like PERB performs highly technical interpretations of statute and  
4 case law. The agency needs the services of the most qualified  
5 people in the state.

6           But Ms. Cordoba clearly has neither the training nor the  
7 experience to qualify a person to rule on agonizing, complex  
8 labor issues. Her ill-informed biased judgments could negatively  
9 shape our state's public policies for years to come.

10          The nomination of Betty Cordoba to PERB reminds me of  
11 the ill-advised nomination of Judge Robert Bork to the United  
12 States Supreme Court. Like Judge Bork, Betty Cordoba is a person  
13 whose ideological leanings are so overwhelming as to make it  
14 impossible for her to objectively carry out the duties of the  
15 position to which she has been nominated.

16          This analogy in fact may be a disservice to Judge Bork,  
17 because however I may disagree with his beliefs, he is  
18 nevertheless a competent jurist. Ms. Cordoba, on the other hand,  
19 has not the objective qualifications for this position.

20          The the sake of stability in our school system, and  
21 fairness to all employees, I urge you in strongest terms to vote  
22 no on the confirmation of Betty Cordoba to PERB.

23          CHAIRMAN ROBERTI: Thank you very much.

24          Next witness.

25          SENATOR CRAVEN: Question, please.

26          CHAIRMAN ROBERTI: Yes, Senator Craven.  
27  
28



1           SENATOR CRAVEN: Should we ask questions if something  
2 comes to our mind?

3           CHAIRMAN ROBERTI: Yes, I think probably right after  
4 each speaker would be best.

5           SENATOR CRAVEN: Ed, I understand the message which  
6 you've delivered very articulately and succinctly, and I fully  
7 expected that you would do that.

8           If you came in with, you know, bouquets of roses, I  
9 would be somewhat aghast.

10          MR. FOGLIA: I would be impeached, too.

11                           (Laughter.)

12          SENATOR CRAVEN: That probably goes without say, doesn't  
13 it.

14          But you know, Ed, somewhere along the line, a teacher  
15 must have taught me this, but they're words of Longfellow, I  
16 believe, that say: "We judge ourselves by what we feel capable  
17 of doing; other judge us by what we've done."

18          Now, if you want to use that as a sort of an analogy, if  
19 you will, she has the capability of doing all kinds of things;  
20 dastardly, perhaps, as the union may look at it. But what has  
21 she done?

22          What she's done I don't think anybody could complain  
23 about; do you?

24          MR. FOGLIA: Well, it depends on your point of view.

25          When you're talking about the livelihood of your  
26 profession, and the opportunity to participate in the decision  
27 making process, the viewpoint and the philosophy of this  
28







1 individual really is a very serious matter as far as the teachers  
2 are concerned.

3 SENATOR CRAVEN: Well, I think to use the present tense,  
4 Ed, is perhaps somewhat injudicious. If you were used to use the  
5 past tense, I would be inclined to agree with you, at least to  
6 some degree.

7 Perhaps prior pronouncements may have indicated just as  
8 you have said, but there's nothing in the record to my knowledge  
9 which indicates that she holds those feelings today, or that she  
10 would react to the feelings of the past in making judgments  
11 required in her present position.

12 MR. FOGLIA: Well, the only thing we can go by is what  
13 happened with the law was being created, what happened when the  
14 law was passed, and what her behavior has been since.

15 SENATOR CRAVEN: Yes.

16 MR. FOGLIA: Now, we also know that a person is under  
17 scrutiny for the first few months by the way we appointment  
18 individuals here in the State of California, before the hearing  
19 is actually made.

20 Based on a few months of service, I think the  
21 overwhelming history is still very negative as far as we're  
22 concerned in California.

23 SENATOR CRAVEN: Yes, you're looking at past history.

24 MR. FOGLIA: Yes.

25 SENATOR CRAVEN: Well, in effect what you're telling me,  
26 I think, is the fact that no one has the capability of recanting.

27 MR. FOGLIA: Well, I --  
28



1           SENATOR CRAVEN: I disagree with that.

2           MR. FOGLIA: Well, I understand what you're saying, but  
3 I'm saying that these positions are very important positions. I  
4 don't believe that we should be appointing people just by the  
5 sake of saying it's their turn because they've put a lot of time  
6 in.

7           Yes, people do change. But I think that you need to  
8 have a track record. All of you have had a track record. That's  
9 how you got elected, and that's how you stay in office.

10          SENATOR CRAVEN: Presumably.

11          MR. FOGLIA: Yes.

12          SENATOR CRAVEN: Well, maybe we're just fortunate.

13          MR. FOGLIA: Right.

14          Thank you, Senator.

15          SENATOR CRAVEN: Thank you, Ed.

16          CHAIRMAN ROBERTI: Thank you.

17          Next witness.

18          MR. FLYNN: Thank you Senator, Members of the Committee.

19          My name is Ralph Flynn. I'm the Executive Director of  
20 the California Teachers Association.

21          I'm not going to repeat the testimony of our President,  
22 but I'd like to add a couple of things to it.

23          First, I think, it was shock that we felt at the  
24 announcement of the appointment. I think that, quite frankly,  
25 had we received word that John Paul II had named Jimmy Swaggert  
26 to the Papal Curia, we would have been less surprised.

27

28



(Laughter.)

1  
2 MR. FLYNN: I say this because the issue is not one of  
3 whether the appointee or the person recommended for appointment  
4 is pro-labor or pro-union or antiunion.

5 The issue is whether the person is pro-collective  
6 bargaining or anti-collective bargaining.

7 Ms. Cordoba's record has been consistently anti-  
8 collective bargaining, anti the process. In many ways, perhaps  
9 the most damning criticism that's been raised was voiced by her  
10 in her own statement before this Committee this afternoon. In  
11 support of her own nomination, she cited her experience as a  
12 member of the Negotiation Council under the Winton Act.

13 For those of you with a background in collective  
14 bargaining, you'll know that the Winton Act was conceived of, at  
15 best, as an alternative to the collective bargaining process, and  
16 in some ways, perhaps, at worst was antithetical to the  
17 collective bargaining process. I think the fact that the  
18 distinction between what happened under the Winton Act and the  
19 collective bargaining process is such that that distinction is  
20 not understood goes to the very root of our objections.

21 The behavior to date on serving on the PERB Board, as  
22 Mr. Foglia has noted, while she's under a period of time of  
23 intense scrutiny, could, I think, be expected to be somewhat  
24 neutral at best. Our concern is not the behavior in the past six  
25 months. It's what happens after confirmation.

26 Quite frankly, I think that even exercising the best  
27 judgment or the best will in the world -- rather, I think that  
28







1 there's such a profound misunderstanding of the collective  
2 bargaining process that with the best will in the world,  
3 Ms. Cordoba could not carry out the responsibilities of this job.

4 Thank you very much.

5 CHAIRMAN ROBERTI: Thank you.

6 Senator Craven.

7 SENATOR CRAVEN: Mr. Flynn, has Ms. Cordoba served in a  
8 quasi-judicial sense, if you will, wherein she has made binding  
9 decisions as it affects collective bargaining?

10 MR. FLYNN: I believe that in her capacity --

11 SENATOR CRAVEN: Not presently. I'm referring to her  
12 past.

13 MR. FLYNN: Would you repeat the question?

14 SENATOR CRAVEN: Has she, as a member of a board or  
15 jurisdiction which can pass a binding judgment on collective  
16 bargaining, has she served in any such capacity in times past  
17 where she voted to impose her will, if you will?

18 MR. FLYNN: To my knowledge, no.

19 SENATOR CRAVEN: So, in other words, what you're saying  
20 is, "I'm presuming these things"?

21 MR. FLYNN: No, what I'm saying is this: that based on  
22 her not only statements, but in her role with other organizations  
23 which she helped found, the public employees' Professional  
24 Educators of L.A., the organization was committed --

25 SENATOR CRAVEN: I understand that.

26 MR. FLYNN: -- to the destruction of collective  
27 bargaining.  
28



1           SENATOR CRAVEN: Let me say that from the standpoint of  
2 my particular philosophy, the organization to which you have just  
3 referred didn't happen to lead the league, as far as I was  
4 concerned. I have generally been on the other side of the issue,  
5 on your side, as a matter of fact.

6           But what I'm saying is that despite that fact, she has  
7 not really been with a jurisdiction that had the power, if you  
8 will, or the authority to make any such decision that would be  
9 adverse to your best interest as you view it.

10          MR. FLYNN: To my knowledge, she hasn't had the  
11 opportunity, which of course doesn't indicate that -- how she  
12 would have exercised that opportunity had it existed.

13          SENATOR CRAVEN: No, that's right. And what you just  
14 said is very, very true. It does not indicate.

15          So therefore, if it does not indicate, we should not  
16 presume.

17          MR. FLYNN: Well, I think that we can presume to the  
18 extent that the person has made a public record about their  
19 attitude.

20          SENATOR CRAVEN: That's not a question of presumption.  
21 That's a question of fact.

22          MR. FLYNN: Well therefore I then say that the fact does  
23 exist.

24          SENATOR CRAVEN: The fact that in the past it has, yes.

25          I think we have to look at this thing chronologically,  
26 and I'm looking at her from the standpoint of now she's in power,  
27 and what will she do when faced with these situations?  
28



1 I know what she's done or said, or is interpreted to  
2 have said, in times past. And I don't quarrel with you on that  
3 whatsoever.

4 But I'm saying that in her present role, she has not  
5 done anything that, in your judgment, has been adverse.

6 MR. FLYNN: Senator Craven, I think that were we anxious  
7 only about behavior a decade ago or so, or more, I think that  
8 fairness would perhaps indicate a review of the record.

9 However, as recently as a year ago, while Ms. Cordoba  
10 was still a member in good standing of PELA and PEG, that  
11 organization took a strong position before the Public Employment  
12 Board in its opposition to agency fee, in which it reiterated its  
13 position of opposition to collective bargaining and longed to  
14 return to the days of the Winton Act.

15 So, we're not talking about attitudes that existed in  
16 the murk of the distant past. We're talking a consistent, her  
17 consistent, record.

18 SENATOR CRAVEN: Thank you.

19 CHAIRMAN ROBERTI: Thank you.

20 MR. LAMBERT: Bill Lambert, with the United Teachers of  
21 Los Angeles.

22 We represent 30,000 teachers, and we bring issues to the  
23 PERB Board all the time.

24 And I had one speech, and I'm going to make another one,  
25 because I think, Senator Craven, you've really touched a nerve,  
26 and you'll ask me the question anyway, so I may as well answer it  
27 in advance.  
28







1           SENATOR CRAVEN: Not necessarily, Bill.

2           MR. LAMBERT: But you know, it's what you guess  
3 somebody's going to do. That's why we have hearings; that's why  
4 you have this Committee, to screen and to find out about what you  
5 think is going to happen.

6           The 30,000 teachers of Los Angeles that I represent, we  
7 know what's going to happen if Betty Cordoba is elected to this  
8 Board.

9           Now, let me say this. Two statements that were made by  
10 Ms. Cordoba tonight -- and I hadn't intended to do that, but  
11 Mr. Flynn reflected upon one -- and that is that she really  
12 emphasized the fact that she was a member of a meet and confer,  
13 not negotiate. Now, that's important. Not negotiate.

14           You know, the Rodda Act is a negotiating act. It is not  
15 a meet and confer act.

16           SENATOR CRAVEN: I think she said, she prefaced or put  
17 added emphasis on it as to differentiate between what existed  
18 before the Rodda Act, and she, I thought, was very succinct in so  
19 stating.

20           MR. LAMBERT: Well, let me just say this. What she was  
21 -- what she was emphasizing was what she really believes and one  
22 of the things that we have heard in the Los Angeles Unified  
23 School District for some 25 or 30 years.

24           The other thing she said, which is also emphasis, was  
25 the fact that she represented the Nonstriking Teachers of Los  
26 Angeles.

27  
28



1 Now, those may or may not be important, but you talked  
2 about the present, let's not talk about the past. Somebody who  
3 testified for her a few minutes ago indicated that, you know,  
4 this is a new Betty Cordoba with a new philosophy that's going to  
5 be wide open to everybody.

6 We don't believe that. We think her attitude just in  
7 answering the questions, you know, indicate that.

8 SENATOR CRAVEN: I didn't hear that testimony.

9 MR. LAMBERT: It's on the record, because it's been --

10 SENATOR CRAVEN: The "new Betty Cordoba"?

11 MR. LAMBERT: No, I'm saying that.

12 SENATOR CRAVEN: That's your wording.

13 MR. LAMBERT: That's my word, yes. The new Betty  
14 Cordoba.

15 Somebody said her philosophy has -- is the philosophy of  
16 the past. And I don't think the philosophy is the philosophy of  
17 the past. I think it's the philosophy of the present.

18 This is Ms. Cordoba, who believes that the school board  
19 has the final say-so through their school board members. Well,  
20 the arguments that you get into in the PERB Board are arguments  
21 between the union and the school board over a point of fact. If,  
22 indeed, the school board has the final say-so, how do we get a  
23 fair hearing? We don't get a fair hearing. We don't think we  
24 can get a fair hearing.

25 I had written some notes down. I just want to do them;  
26 it's kind of interesting. And that is this: that the person  
27 that you have before you to confirm is anti-bargaining; she's  
28





1 anti the Rodda Act; she doesn't believe in teacher contracts; she  
2 is against exclusive representation of teachers; she is against  
3 arbitration; she fought the Rodda Act. There isn't anything left  
4 to the whole Act.

5 And here's a woman that's saying, "Confirm me. Put me  
6 on a Board to make decisions on the livelihood of teachers in  
7 this arena," and we don't have a chance.

8 SENATOR CRAVEN: You don't have a chance?

9 MR. LAMBERT: No.

10 SENATOR CRAVEN: Because she's five-fifths of the Board?

11 MR. LAMBERT: Because she is one -- twenty percent of  
12 the Board, or whatever one-fifth represents.

13 SENATOR CRAVEN: That's good enough.

14 MR. LAMBERT: Because she has a voice; because she has a  
15 vote; because she can make the difference in a swing vote between  
16 two and three, or three and two, whatever it is, is not the place  
17 to put somebody who has that remarkable record.

18 Now, I don't expect the Governor to appoint somebody to  
19 the PERB Board, you know, that is going to be an out-and-out  
20 super liberal person who wants to -- you know, who flies the flag  
21 of the Teamsters Union. I don't expect that.

22 I expect somebody who comes on the PERB Board to be  
23 somebody that I think that we can get a fair hearing from.

24 From our experience in Los Angeles -- and believe me,  
25 there's nobody that's had greater experience than us with PERA,  
26 and with Betty Cordoba, and with the slings and arrows of  
27 "contracts are bad," and "agency shop is bad," "unionism is bad"  
28





1 -- I don't care if she joined six months ago. It's wonderful,  
2 she thinks, six months ago she joined the union, six months ago  
3 doing all these wonderful votes. You know, it's great.

4 But I would ask you, you know, in your heart of hearts,  
5 to really understand the fact that representing the teachers of  
6 Los Angeles, that we cannot accept the nomination of Betty  
7 Cordoba to the Board. We think it's a terrible nomination.

8 CHAIRMAN ROBERTI: Thank you very much.

9 Next witness.

10 MR. PRESTON: Mr. Chairman and Members of the Committee,  
11 my name is Gene Preston. I'm General Manager of the California  
12 State Employees Association.

13 We appear before you today to state in the strongest  
14 terms possible our opposition to the confirmation of Ms. Betty  
15 Cordoba.

16 CSEA represents 86,000 State employees who fall under  
17 the provisions of this Board. The role of the Board is to serve  
18 as the neutral, to resolve disputes in a fair, impartial and  
19 professional manner. The law states that the purpose of the  
20 Board is to promote the improvement of personnel-management and  
21 employer-employee relations.

22 Ms. Cordoba has demonstrated, through her efforts and  
23 activities, that she opposes collective bargaining and exclusive  
24 recognition. She should not and must not be rewarded with the  
25 privilege of sitting in this capacity.

26 In the interest of time, and being aware of your long  
27 agenda, I've been brief. However, I don't want you to  
28



1 misinterpret this brevity. We are very strongly opposed to this  
2 particular appointment.

3 Once again, we really are opposed.

4 Thank you.

5 SENATOR CRAVEN: May I ask --

6 MR. PRESTON: Sure.

7 SENATOR CRAVEN: Would you tell me your name again,  
8 please?

9 MR. PRESTON: Gene Preston.

10 SENATOR CRAVEN: Mr. Preston, are you saying what you  
11 want from the standpoint of the personality, or philosophy I  
12 guess is a better word, of an appointee is someone who agrees  
13 with every position you hold?

14 MR. PRESTON: Absolutely not.

15 You know, I think if that were the case, it would be a  
16 little bit different. But Ms. Cordoba has, until June of '87, as  
17 I understand it, has been a member of the organization called  
18 NAPE, National Association of Professional Educators.

19 Until July 1st of this year, I was Executive Director of  
20 the Pennsylvania State Education Association, the teachers'  
21 organization, and worked within that area for the last 25 years.

22 NAPE was created for the purpose of opposing collective  
23 bargaining, and it grew out of the unionization of teachers.  
24 That's where it got its roots.

25 I have looked at the record, and everything that I have  
26 seen indicates that this woman is opposed to collective  
27 bargaining. She has been opposed to exclusive recognition and  
28 the other provisions of collective bargaining law.



1 I can't see how a person who is opposed, and all of  
2 their values and beliefs point in opposition of a law that  
3 they're supposed to enforce, how they could possibly be fair and  
4 just in implementing that law.

5 We can only judge on the past. And all of the past  
6 record to date indicates that she is not qualified or prepared to  
7 sit and be an impartial judge. That was the point that I was  
8 trying to make.

9 SENATOR CRAVEN: Yes.

10 Philosophically, she has made certain statements which  
11 would probably lead you to the conclusions with which you have  
12 arrived, so to speak.

13 My thought is that you could have certain feelings about  
14 certain of the areas within the purview of that Board without  
15 being against in toto everything that you may feel is  
16 appropriate.

17 When you say that she's not qualified, I think basically  
18 -- if those were your words -- I think she's pretty eminently  
19 qualified from the standpoint of an educator. I think she has  
20 all of the nuances, if you will, and background to make her a  
21 very, very fine teacher, which obviously she has been.

22 She may hold or have held, and let me phrase it that  
23 way, certain feelings in the past with which you may not agree,  
24 and with which I may not agree, to be very honest about it. But  
25 I don't like to see her foreclosed when no attention is given to  
26 her present record, and basically that's what we're talking  
27 about. That's the operation in which she will be involved.  
28





1 From the standpoint of that, it appears to me that she  
2 has not taken any adverse postures on what I'd have to consider  
3 to be rather typical agenda items before that Board.

4 MR. PRESTON: Do you care for me to respond to that?

5 I can only respond in the sense that I have talked with  
6 our staff and others who've been observing the proceedings of a  
7 hearing on fair share that is proceeding. Our people have said  
8 to us that they do not believe that Ms. Cordoba understands fair  
9 share and the process.

10 I think that's unfortunate, that I have to bring a  
11 second opinion, but --

12 SENATOR CRAVEN: That's all right. I think it would  
13 also be unfortunate for me to say that you, coming from the State  
14 of Pennsylvania, don't know a thing about what goes on in  
15 California.

16 MR. PRESTON: Absolutely.

17 SENATOR CRAVEN: That would be very unfair judgment.

18 MR. PRESTON: Absolutely, it would.

19 SENATOR CRAVEN: Are you a Pennsylvanian?

20 MR. PRESTON: No, I'm a Californian, registered to vote,  
21 sir.

22 (Laughter.)

23 CHAIRMAN ROBERTI: It wouldn't have hurt you to say yes,  
24 because Senator Craven's getting to the punch line.

25 (Laughter.)

26 SENATOR CRAVEN: No, there's no close for this bit at  
27 all.



1 Put just as an analogy, I thought, you know, you may  
2 say, "Well, he worked back there. What does he know? He's in  
3 Harrisburg," and aside from watching the Allegheny River freeze  
4 over in the winter time, there's not much going on -- the  
5 Susquehanna River. I'm sorry, got the wrong river.

6 MR. PRESTON: Beautiful river.

7 SENATOR CRAVEN: Yes, it is.

8 But we have an alumni meeting of Pennsylvanians here  
9 after the meeting is over tonight, so I'll look forward to seeing  
10 you.

11 MR. PRESTON: Thank you very much.

12 MR. LOW: Mr. Chairman and Members, my name is Dave Low  
13 with the California School Employees Association.

14 Our union represents over 150,000 classified school  
15 employees in California's public schools. And we are opposing  
16 the confirmation of Betty Cordoba to the Public Employees  
17 Retirement Board -- I mean, Public Employment Relations Board  
18 for numerous reasons.

19 The PERB Board is charged with upholding the Education  
20 Employment Relations Act. And Betty Cordoba's record proves her  
21 to be an individual who would obstruct, not uphold, the EERA.  
22 The EERA guarantees the right of employees to select an exclusive  
23 representative. Betty Cordoba has gone on record as opposing  
24 exclusivity. The EERA guarantees the right to negotiate for  
25 binding arbitration. Betty Cordoba opposes binding arbitration.  
26 The EERA guarantees the right to bargain for agency shop. Betty  
27 Cordoba has opposed agency shop.  
28





1           The Supreme Court has affirmed the right public  
2 employees to strike. Betty Cordoba has opposed this right. In  
3 fact, Betty Cordoba, as co-Chairman for the Committee on  
4 Individual Rights, has testified before the Assembly Public  
5 Employees and Retirement Committee, in 1980, over these very  
6 issues. And I quote from her testimony:

7           "The Committee for Individual Rights  
8 is planning an initiative signature  
9 drive to qualify for the 1982 ballot  
10 a measure that will mandate an end to  
11 exclusivity, agency shop, binding  
12 arbitration, and the use of public  
13 employee dues money for political  
14 purposes. It will also expressly  
15 declare public strikes illegal,  
16 assess penalties for strikers, and  
17 prohibit amnesty agreements."

18           It's clear that Ms. Cordoba has no respect for the laws  
19 that the Legislature has carefully and deliberately enacted to  
20 govern collective bargaining.

21           How can we expect her to fairly interpret these laws  
22 when she's already testified and gone on record that she promotes  
23 their repeal?

24           Ms. Cordoba testified that she is not antiunion because  
25 she recently joined a labor union. We assert that labor union  
26 membership does not prove her neutrality, and her record speaks  
27 for itself.  
28



1 With regard to your questions regarding her current  
2 duties on the Board, in her short tenure, she has not made a  
3 whole lot of decisions, but she has had the opportunity to  
4 address certain issues, and we believe that she has demonstrated  
5 a clear conflict.

6 One such issue is agency shop. And here to testify  
7 regarding the issue of agency shop is our staff attorney, who has  
8 been dealing with this issue before the Public Employment  
9 Relations Board.

10 SENATOR CRAVEN: Dave, when she voted on the agency shop  
11 issue, was she not with the majority of the vote?

12 MR. LOW: Yes, I believe she was.

13 SENATOR CRAVEN: So, you've got a couple of other people  
14 on there you want to scrutinize.

15 MR. LOW: We'd like to do that, too.

16 (Laughter.)

17 CHAIRMAN ROBERTI: Before we get to the next witness, I  
18 have a phone call I have to return, and Senator Mello is not  
19 here.

20 SENATOR CRAVEN: Let's take a recess.

21 CHAIRMAN ROBERTI: So, we'll recess for ten minutes.

22 (Thereupon a brief recess was taken.)

23 SENATOR CRAVEN: Let's continue.

24 We were about to hear Counsel make a presentation.  
25 Would you please state your name.

26 MR. HEATH: My name is Bill Heath. As Mr. Low, the  
27 previous witness, indicated, and he indicated some of the other  
28



1 objections of our organization, I'm here to testify as a staff  
2 attorney for the California School Employees Association and as a  
3 practitioner before PERB.

4 First of all, I would like to say that certainly agree  
5 with Senator Craven, that anybody is capable of recanting at any  
6 time. I would just like to point out that that's kind of a  
7 difficult argument to tell to the chickens when they find the fox  
8 appointed to guard the hen house. The analogy isn't quite  
9 perfect; I don't pretend that unions are chickens, just exactly  
10 the opposite.

11 That's all we have to go on, is past actions at this  
12 point, with one -- a couple limited exceptions, one of which I'm  
13 going to talk about.

14 In view of Senator Craven's concerns, I'll limit my  
15 testimony to a particular incident involving myself and  
16 Ms. Cordoba and PERB's present consideration of proposed  
17 regulations concerning agency shop agreement which are authorized  
18 by Government Code Section 3546. And this is the present record,  
19 not her past record, which I'm calling to this Committee's  
20 attention.

21 Now, without belaboring the Committee with a detailed  
22 discussion of the subject of agency shop agreements, it's  
23 sufficient to say that the court decisions in this area strike a  
24 balance between the interest of the unions and distributing the  
25 cost of obtaining collective bargaining benefits fairly among all  
26 individuals who receive those benefits whom the unions represent,  
27 and the interest of represented employees who don't belong to the  
28





1 union in not paying for the union activities that are unrelated  
2 to collective bargaining. I stress, that's a balancing test.

3 Now, the Committee, this Committee, has already received  
4 a copy of a letter Ms. Cordoba wrote in 1980 to the Assembly  
5 Public Employees and Retirement Committee, in which she advocated  
6 repeal of the Rodda Act, the very act creating the agency on  
7 which she now sits. And you've heard other witnesses testify  
8 about their concerns about that from 1980 and subsequently.

9 Given that position, I was not at all surprised when, on  
10 November 16th, 1986, she testified on behalf of the Professional  
11 Educators of Los Angeles concerning these agency shop  
12 regulations, which were then under consideration by PERB, and are  
13 still under consideration by PERB. And I believe her testimony  
14 generally endorses a position of an organization that's probably  
15 better known to Committee Members as the National Right to Work  
16 Foundation.

17 In any event, I myself testified on that same day in  
18 opposition to her position and the position of others who were  
19 representing her viewpoints.

20 Now, while I wasn't surprised at that testimony, I was  
21 surprised when, about ten or eleven months later, when PERB was  
22 still considering these same regulations, and Ms. Cordoba was now  
23 sitting on the Board, she failed to voluntarily recuse herself  
24 from that matter on the basis that she had previously been a  
25 witness in that same matter before PERB.

26 I was placed in the rather embarrassing position, as a  
27 practitioner before PERB, in having to request her recusal.  
28



1 Just for a little clarification on that, she was, when  
2 she testified, she was representing an employee organization, the  
3 Professional Educators of Los Angeles. And that employee  
4 organization has standing before PERB, although it's not an  
5 exclusive employee organization.

6 If she had been an attorney, she would have had to have  
7 recused herself from that matter as a Member of PERB. Not only  
8 that, I realize that that was a rule-making function and not a  
9 judicial function that PERB was engaged in at the time, but I  
10 think that distinction is somewhat academic in view of the fact  
11 that PERB is adjudicating several agency shop matters at the same  
12 time that they are going forward with this rule-making procedure.

13 But I do think that the Code of Judicial Conduct, for  
14 example, is appropriate to look at as an analogy; although, it's  
15 certainly not controlling in this case. That, Canon Two of the  
16 Code of Judicial Conduct, requires a judge to avoid not just  
17 impropriety, but the appearance of impropriety in all his  
18 activities. And Canon Three, Section C(b), provides that a judge  
19 should disqualify himself if he's been a material witness in a  
20 matter in controversy before the court.

21 There are other provisions for recusal in the Code of  
22 Civil Procedure, Section 170.1, which I think also apply.

23 In any event, she failed to voluntarily recuse herself.  
24 I then requested that she recuse herself at a meeting last  
25 October, and then in a subsequent meeting that I appeared at to  
26 give further testimony on this subject, and she was still  
27 participating in the discussion of the matter.  
28





1 I then repeated my request in somewhat more forceful  
2 terms. Maybe "forceful" is an understatement. What I actually  
3 said was that her sitting on the Board as a decision maker in  
4 this very same matter that she had previously appeared as an  
5 advocate held that agency up to shame and ridicule.

6 And at that point she told me that she didn't think I  
7 was serious in the previous request, and that she would consult  
8 with General Counsel. I, obviously, have no knowledge of what  
9 the General Counsel advised her, but on December 9th, she  
10 announced that she would not recuse herself from this matter, and  
11 that she planned -- I wasn't at that meeting, but I understand  
12 that she said that she felt her expertise in this area would be  
13 of value to the Board. Her expertise, of course, being what  
14 she'd expressed as a representative of PELA, particularly  
15 contrary to agency shop.

16 CHAIRMAN ROBERTI: Senator Ellis.

17 SENATOR ELLIS: I lost your train of thought there for  
18 you for a few minutes.

19 Were you referring to a situation where Ms. Cordoba was  
20 sitting in a quasi-judicial position, and on a matter that she  
21 had been an advocate, one side or the other, in some previous  
22 position?

23 MR. HEATH: No, first of all, it's a quasi-judicial --  
24 the Board has a quasi-judicial function.

25 SENATOR ELLIS: Right.

26 MR. HEATH: But this was a rule-making process that was  
27 going on at the same time as other quasi-judicial functions were  
28 going on on this subject.



1           The PERB began to consider agency shop regulations in  
2 response to the Supreme Court case, Hudson versus Chicago  
3 Teachers Association, which PERB felt mandated that they go  
4 forward with some of these regulations. And it's from the moment  
5 that she testified before PERB in consideration of that matter.  
6 She testified --

7           SENATOR ELLIS: She testified before PERB as a Member of  
8 PERB?

9           MR. HEATH: No, she testified before PERB as a  
10 representative of PELA.

11          SENATOR ELLIS: That's back before she became a Member  
12 of PERB?

13          MR. HEATH: Correct.

14          She testified in the same manner -- in the same matter,  
15 representing an organization that had standing before PERB, that  
16 she later refused to recuse herself on when she became a Member  
17 of PERB.

18          SENATOR ELLIS: Do you think that that was a  
19 requirement, that she should by law or by anything?

20          MR. HEATH: I don't know, not for -- it's not a  
21 requirement by law for an administrative board member, for a  
22 member of a board like that.

23          I think there's an appropriate analogy, particularly  
24 since Senator Craven is looking for some recent history, to show  
25 what an attorney would have had to have done who'd be  
26 representing an employee organization in that same situation, and  
27 further, what the Code of Judicial Conduct requires in this area.  
28



1           And I want to stress that there's no way, obviously,  
2           that I can get inside Ms. Cordoba's mind on that, but the  
3           appearance of impropriety, as I point out, is just as important  
4           as avoiding impropriety itself. And I know that --

5           SENATOR ELLIS: It's your perception that she should not  
6           have been doing it. There's no rule, or law, or Canon of Ethics,  
7           or anything like that, that requires her to remove herself?

8           MR. HEATH: Not in that capacity, no.

9           But, and I'll leave it to the Senators to make their own  
10          judgment on that. I'm certainly saying it's my judgment that  
11          that is highly improper, and it would be improper had she been --  
12          she'd be prohibited had she been an attorney in her previous  
13          testimony.

14          And I know from conversations with Chairperson Hesse  
15          that there's been a lot of changes at PERB recently. And I know  
16          the Chairperson has a strong concern that the agency garner  
17          respect for all throughout the community and in front of all  
18          parties that come before it.

19          And this is clearly counterproductive to that goal.  
20          Just for example --

21          SENATOR ELLIS: All right.

22          But as an attorney and an advocate of a certain  
23          position, you're saying that if you were, next year, appointed to  
24          the PERB Board, that you would have to remove yourself?

25          MR. HEATH: If I had testified in a matter that PERB was  
26          then considering, yes.

27  
28





1           SENATOR ELLIS: Obviously you testify probably daily, or  
2 every time they meet; don't you?

3           MR. HEATH: No, this is a rule-making proceeding that's  
4 been going on for well over a year, same matter.

5           I don't testify before PERB as a rule at all. I do  
6 represent my employer in unfair labor practice charges before  
7 Administrative Law Judges, and I do put in briefs when they go up  
8 to PERB.

9           SENATOR ELLIS: But you, in representing a person who  
10 was before the Board, or before an Administrative Law Judge, or  
11 anybody else, then if at some future time you were appointed to  
12 something, that you would have to remove yourself?

13          MR. HEATH: If it was a matter that I had represented.  
14 If it was, for instance, a case brought by the California School  
15 Employees Association, that I had represented that agency in the,  
16 say, the Administrative Law Judge level, before it went up to  
17 PERB. Between those, in the middle of that step, I had been  
18 appointed to PERB, absolutely. The Code of Professional Conduct  
19 would require me to do that.

20          Further, my point about recusal isn't so much what's  
21 required. It's the appearance of impropriety that failure to  
22 recuse in that situation causes.

23          I appreciate Ms. Cordoba's comments about Member Craib,  
24 the fact that he does not automatically take pro-union positions.  
25 Member Craib has certainly endorsed this idea of recusal and  
26 frequently recuses himself on matters where, frankly, the others  
27 -- some of us don't even know why he's recusing himself, but he  
28



1 does. He has a sense that it might create an appearance of  
2 impropriety and he recuses himself. And the same is true of  
3 Chairperson Hesse. She has recused herself in a couple of  
4 matters, and Member Porter.

5 If I was an attorney, if I was a General Counsel for  
6 PERB, and Ms. Cordoba came to me for advice about recusal, as  
7 apparently she says she did to General Counsel of PERB, I would  
8 certainly advise her to recuse herself in that situation.

9 SENATOR ELLIS: But the General Counsel has not done  
10 that.

11 MR. HEATH: I have no idea what the General Counsel  
12 advised her.

13 CHAIRMAN ROBERTI: Ms. Cordoba.

14 MS. CORDOBA: I was going to ask you, when would be the  
15 proper time for me to address some of the comments that have been  
16 made by previous speakers?

17 CHAIRMAN ROBERTI: Usually in your rebuttal.

18 How many more are here to testify in opposition?

19 We're going to have to keep it relatively brief. Please  
20 don't add anything that we haven't heard already.

21 I was thinking that since it's lengthy, that I'd give  
22 you a chance now. But if you take good notes, I'm going to  
23 enjoin the other witnesses to be relatively brief, that will give  
24 you time to respond while it's still fresh in your memory.

25 MR. HEATH: In response to that concern, I would just  
26 close by saying that I think all parties before PERB have a right  
27 not to 80 percent of the Board, but to 100 percent of the Board,  
28





1 being impartial and not only being impartial, but presenting the  
2 appearance of impartiality.

3 I believe Ms. Cordoba has demonstrated that that's not  
4 occurring in her case, and therefore, she's not appropriate to  
5 sit on the Board.

6 CHAIRMAN ROBERTI: Thank you very much.

7 Next witness.

8 MS. KEALEY: Thank you.

9 Maura Kealey for the Service Employees International  
10 Union.

11 I would simply like to enter into the record the  
12 testimony of Kristi Sermersheim, who has left. It's written, and  
13 the Sergeant has distributed it, in strong opposition.

14 CHAIRMAN ROBERTI: Yes, I have it here. Thank you.

15 Next witness, and because of the hour, if you could keep  
16 it relatively brief we would appreciate it.

17 MR. KIM: I'm Kenneth Kim. I'm a school board member  
18 from Hacienda La Puente Unified School District. I've been a  
19 board member for eleven years, and I'm speaking as an individual.

20 I support the testimony that was before you on the  
21 position against Ms. Cordoba's appointment. I want to make a  
22 couple of points, read part of the statement that is new.

23 I don't feel the quality of being a teacher, or having  
24 an educational-related representative necessarily to the PERB  
25 Board is an important factor. I think a more important factor is  
26 who has got the competency in labor relations, personnel  
27 administration, conflict management. These are the things that  
28 the PERB Board deals with.



1 In fact, I almost would oppose an educational  
2 representative on the PERB Board if somehow it means the PERB  
3 Board has something to do with the educational aspects of running  
4 a school district. The kind of issues that the PERB will deal  
5 with has nothing to do with the curriculum and the intent of  
6 running a school district. It only deals itself with labor  
7 relations.

8 To one point I will reiterate, and that has to do with  
9 how can a person be deemed credible who has been in opposition to  
10 the establishment of the EERA, and how can we have credibility in  
11 a person appointed to that type of position. And the point I  
12 want to make primarily has to deal with the perception and the  
13 morale factor.

14 We at the local level that must deal with our employees,  
15 and maintain good relationships with our employees, it's  
16 reassuring to know that when we do have an honest disagreement,  
17 that there is available to us the courts, arbitrators, the PERB  
18 Board. The credibility, the neutrality, and the perception that  
19 a fair hearing will be ensued is vital in maintaining good  
20 employee relations.

21 When we are all assured that the system's going to be  
22 fair and unbiased, it encourages local resolution before it  
23 becomes a, quote, "legal" issue. We try and resolve it when  
24 everyone knows the system's going to be fair if we pursue it  
25 further.

26 When biases are perceived, and there's no interest on  
27 one party to appeal, the side in favor can be recalcitrant, the  
28





1 unfavorable side would be frustrated and use administrative  
2 prerogatives or job actions, all which lead to deterioration of  
3 good employee relations.

4 We in education are still learning the art of labor  
5 relations. Labor law, established procedures, the appeals  
6 procedures, have all contributed greatly to labor peace.

7 Frustrating one side or the other with perceived biases  
8 will only add to our burden that the system is not fair and give  
9 cause to more unique disruption tactics that are detrimental to  
10 the morale of school employees.

11 The Employee Relations Board is still in the process of  
12 evolving. The opportunity to make labor relations in the public  
13 sector in California one of the finest in the nation is still  
14 possible. This is the time to obtain the most experienced people  
15 in the field to help guide the State to an enlightened 21st  
16 Century. The most populous state will become even more populous,  
17 and the art of managing personnel and manpower will be forever a  
18 challenge.

19 The Legislature has delegated a great deal of the  
20 policy-making functions to this Board, and in the future may rely  
21 upon this Board for recommendations for legislation. The  
22 Legislature and the people of California should expect this Board  
23 to be knowledgeable authorities, capable, respected by the  
24 practitioners that must use the laws, and have the prestige of  
25 any appellate body.

26 Thank you.

27 CHAIRMAN ROBERTI: Thank you.  
28





1           Next witness.

2           MR. RANKIN: Tom Rankin, representing the California  
3 Labor Federation, AFL-CIO.

4           We're very concerned with this appointment. I'm happy  
5 to hear that Ms. Cordoba is a member of one of our affiliates,  
6 but that doesn't solve the problem.

7           The problem is a basic one. You don't face the usual  
8 confirmation problem here, perhaps, of appointing or confirming  
9 an appointee who used to be an advocate for one side or the  
10 other, one party or the other, in collective bargaining. That's  
11 not the issue.

12           The issue is not whether or not she's pro-union or pro-  
13 management.

14           The issue is that she has, for years and years,  
15 expressed opposition to the very core of trade unionism and to  
16 the laws which she is supposed to administer. And the core  
17 function and the function that the laws are to protect is the  
18 function of collective bargaining.

19           It would be like confirming a Supreme Court Justice who  
20 had for years written his opposition to the constitutional form  
21 of government.

22           And we can't simply go on a short history of a few cases  
23 which she's decided in the past couple months with the gun of  
24 this Committee and the Senate to her head. What you have to look  
25 at, I believe, is the long history of opposition to collective  
26 bargaining.

27

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1 And as the school board member who just testified  
2 indicated, it's very important that both sides of this process  
3 have faith in the objectivity of the Board. I'm afraid that that  
4 faith has been lost at the national level with the National Labor  
5 Relations Board. The system of collective bargaining that that  
6 Board is supposed to administer isn't working any more. Unions  
7 are going outside the system. They're not using it. There's a  
8 lot of chaos out there in private sector labor relations.

9 We wouldn't like to see that happen in the State of  
10 California in the public sector. And we would ask you to oppose  
11 this confirmation.

12 CHAIRMAN ROBERTI: Thank you very much.

13 MS. BOLLING: Mr. Chairman and Committee Members, my  
14 name is Cheryl Bolling, board member of the Emery Unified School  
15 District.

16 I'm here to state my opposition to the confirmation of  
17 Ms. Betty Cordoba.

18 It is my feeling that PERB is the body charged with  
19 oversight of the collective bargaining laws. It has been my  
20 experience that collective bargaining has worked, and that is  
21 partly due to the fact that labor and management do try to work  
22 out issues locally, because PERB decisions do not always satisfy  
23 management or labor.

24 Because of Ms. Cordoba's past objections to the  
25 enactment of the collective bargaining laws, I do not feel that  
26 Ms. Cordoba can objectively fulfill the responsibilities of a  
27 PERB Member.  
28





1 Your consideration of my comments are appreciated.

2 Thank you.

3 CHAIRMAN ROBERTI: Thank you very much.

4 MR. TERRY: Mr. Chairman, Members of the Board, my name  
5 is Dan Terry. I'm the President of the California Profession  
6 Firefighters.

7 I won't -- due to the late hour, I won't try to  
8 reiterate what the previous people have testified to.

9 I will only tell you that our organization is opposed to  
10 the appointment of Betty Cordoba to the Public Employee Relations  
11 Board, and on behalf of the 18,000 professional firefighters in  
12 California, we are extremely concerned about the issue of  
13 fairness in any hearings we may have before that Board.

14 I'd like to express our opposition to her appointment.

15 CHAIRMAN ROBERTI: Thank you.

16 MR. BROAD: Mr. Chairman and Members, Barry Broad with  
17 the Teamsters.

18 I'm probably unique at being a former attorney for the  
19 Public Employment Relations Board. I'd like to say that most of  
20 the cases that Ms. Cordoba's sat on are appeals of dismissals  
21 that really don't involve substantive issues. I think the  
22 biggest issue that was raised in her tenure was this question of  
23 recusal in a case where she was a witness.

24 I realize that it's a -- there was a regulatory matter  
25 and not a judicial case; however, in my experience as an attorney  
26 there, both during the Brown years and in the Deukmejian years,  
27 uniformly, it seemed to me, Board Members were pretty consistent  
28



1 about recusing themselves in cases which involved either their  
2 former employer for a certain period of time after they were  
3 there, or cases where they were in some way a participant.

4 I think it suggests -- I was sitting in the room when  
5 she actually announced that she would not recuse herself, and I  
6 thought, you know, this is just -- it just doesn't show the kind  
7 of reasonable approach to the job that really needs to be there.

8 And, you know, I understand from all sources that she's  
9 very nice and a very affable person. She may be an angel, but  
10 maybe the wrong angel for this job.

11 I think we'll have to oppose her.

12 Thank you.

13 CHAIRMAN ROBERTI: Thank you.

14 MR. GURIAN: I'm Bob Gurian, California Faculty  
15 Association.

16 I'll take off my labor union hat and wear my academic  
17 hat for a second, if I might.

18 I would just like to touch on -- I hope this analogy  
19 will be pardoned. All the speakers before me and all the  
20 speakers who will come after me in essence are saying the same  
21 thing. That is, after 20 years of history, we don't believe that  
22 the zebra's going to change stripes at this point in time.

23 What I would like to address is, what is the cost of  
24 that? What if we're right? What if the public employees  
25 throughout the State of California can no longer go to PERB as a  
26 fair and judicial body?

27  
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1           The disputes that we have with our employers won't go  
2 away, and they won't be settled if PERB comes down unfairly.  
3 They will fester. They will fester between our association and  
4 the trustees. They will fester in every public school in the  
5 state and every firehouse and every police station.

6           The cost of this confirmation is too high. We have not  
7 come before this body and opposed any of the other appointments.  
8 This is our first.

9           And we come before you today to argue, in essence, that  
10 you should not allow PERB to decay to the point -- I hate to use  
11 this -- the ALRB, which was accused by one side under the old  
12 administration of being too pro-union; now it's being accused of  
13 being too pro-farmer.

14           We have not had that in PERB. We have been able to come  
15 to PERB and use it as a judicial body. We've not won all our  
16 cases, obviously; we have won some, lost some. And of course,  
17 we've been unhappy when we've lost.

18           But in general, we believe that PERB has been fair. If  
19 PERB loses that objectivity, the cost to the State workers and to  
20 the population of the State of California will be way too high to  
21 have this confirmation go forward.

22           We think that the confirmation -- that the procedure  
23 ought to be stopped, and we'd ask for a no vote.

24           CHAIRMAN ROBERTI: Thank you very much.

25           MS. CAPELL: Beth Capell with the California Nurses  
26 Association.

27  
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1 We represent over 5,000 nurses who are employed at the  
2 University of California hospitals.

3 We also oppose this nomination. I will not repeat the  
4 testimony of the other witnesses.

5 CHAIRMAN ROBERTI: Thank you very much.

6 MR. BARON: Mr. Chairman and Members, my name is Andy  
7 Baron, with the American Federation of State, County and  
8 Municipal Employees.

9 We represent employees at all levels of the public  
10 sector.

11 Let me just simply say the record is too long, too  
12 clear, too thorough, on being opposed to what we consider to be  
13 basic tenets of unionism to say that at this point in time that  
14 she could possibly be any kind of objective representative on the  
15 Board, so we strongly oppose her nomination.

16 CHAIRMAN ROBERTI: Thank you.

17 MS. BERGAN: Mary Bergan, California Federation of  
18 Teachers.

19 We, too, oppose this nomination of Ms. Cordoba to the  
20 Public Employment Relations Board. We think it is at best an  
21 inappropriate nomination.

22 Throughout the years, when Ms. Cordoba and I were both  
23 here, going through collective bargaining or bargaining-related  
24 legislation -- because I do want to indicate that it wasn't all  
25 prior to 1975; there has been legislation since then, I think, of  
26 a bill of Senator Rogers last year -- Ms. Cordoba has  
27 demonstrated what I can only describe as a paternalistic view of  
28 school employer-employee relations.



1 I would note that she resigned from PELA and PEG only  
2 upon her appointment to the Board. That, to me, is not evidence  
3 of recanting views.

4 I think it is a legitimate concern for all of us, for  
5 all of us, to be concerned with her frame of mind and her depth  
6 of knowledge concerning employer-employee relations in this state  
7 and in our schools.

8 We would ask for a no vote on her confirmation.

9 CHAIRMAN ROBERTI: Thank you.

10 MR. PASQUALINI: Mr. Chairman and Members, Joe  
11 Pasqualini, representing the Amalgamated Transit Union.

12 We also are very much opposed to Ms. Cordoba's  
13 appointment to the PERB.

14 Thank you.

15 CHAIRMAN ROBERTI: Thank you very much.

16 MS. BARTLETT: Hi, my name is Pattie Bartlett. I've  
17 worked as a psychiatric technician for the past fourteen years  
18 for the California State Department of Development Services.

19 During that time, I've been a member of various employee  
20 organizations who have gone before PERB for interpretation and  
21 application of the State Employer-Employee Relations Act, or the  
22 Dills Act.

23 I'm currently employed by the Communications Workers of  
24 America, who is working towards representation of other public  
25 employees in this state.

26 Betty Cordoba has publicly and openly stated her  
27 beliefs, namely that she opposed the collective bargaining  
28





1 process, as she feels it leads to strikes. She has also opposed  
2 legislation from whence the Education Employment Relations Act  
3 came.

4 I find it difficult to believe that you would now charge  
5 her with the responsibility of administration of SEERA and  
6 similar laws.

7 As one of 7,500 psychiatric technicians, and on behalf  
8 of the Communications Workers of America, I will rely upon you to  
9 reject Betty Cordoba from appointment to the PERB for her  
10 opposition to collective bargaining, and her appointment would  
11 work only towards the erosion of the principles that PERB was set  
12 up for.

13 CHAIRMAN ROBERTI: Thank you very much.

14 Ms. Cordoba, you may rebut.

15 MS. CORDOBA: Senator Roberti and Committee Members,  
16 first of all, it was mentioned by Mr. Foglia that the press had  
17 said that I had said unions were evil.

18 That is an untrue statement. Just because it was in the  
19 paper does not make it true. I never said that sentence at all.

20 I think that the statement was also made, yes, by Mr.  
21 Foglia that the teacher organizations that I represent, or was a  
22 member of, we really only formed them for the demise of  
23 collective bargaining.

24 Not true. Not all teachers think alike. Teachers,  
25 thousands of them in the State of California, cannot align  
26 themselves with the CTA or the CFT group, because they do not  
27 like the philosophy or the modus operandi of those groups, and in  
28



1 their conscience, they cannot be members. They're willing to pay  
2 the collective bargaining costs, of their agency shop fee if  
3 agency shop is in their district, but they cannot be members.

4 And I think it would be a very sorry state of affairs if  
5 every teacher in the State of California and/or in the United  
6 State thought alike. I think that would be dangerous. I think  
7 that is totally repugnant to any fair-minded individual.

8 The very fabric of our society, as it has developed in  
9 the time that I've been on this planet Earth -- through the late  
10 '20s, the '30s, the '40s, the '50s, the '60s, the '70s and now the  
11 '80s -- the great diversity that we have as a society is because  
12 we have many different kinds of teachers. Some gave their  
13 students a great deal of art. Some gave their students a great  
14 deal of music. And the balance that they've had in different  
15 teachers' classrooms -- I'm talking about the elementary grades,  
16 because, of course, it's subject matter in the higher grades --  
17 but some have stressed math and science; some have stressed  
18 English and social studies. And these students have turned out  
19 the way they have because of the diversity of teachers.

20 Lord help us if teachers begin to think lock-step. I  
21 think we would be in a terrible situation.

22 Now let me address my next remarks to a very important  
23 issue, the issue of my recusal.

24 I came to PERB in 1986, in the month of November. Eight  
25 months prior to my going on to the PERB Board -- and I spoke for  
26 Professional Educators of Los Angeles; I have a copy of the  
27 testimony with me here today -- and the bottom line of what I  
28





1 said was: "Please don't establish no regs and let it be  
2 adjudicated on a case-by-case basis. Please don't adopt short  
3 regs that would not be adequate in my group's opinion. But  
4 please adopt comprehensive regulations and fully carry out the  
5 legality of the Hudson -- which is a federal Supreme Court  
6 decision that came out of the Chicago teachers' group -- because  
7 the First and Fourteenth Amendment rights to protect teachers  
8 must be protected, and the Hudson regulations must be implemented  
9 throughout every school district in this state and all 15,000  
10 school districts in the United States."

11 When I asked the General Counsel, John Spittler, at the  
12 Public Employment Relations Board if I should recuse, he took  
13 some time. He studied it legally. He said, "Technically and  
14 legally, there is no need for you to recuse."

15 Someone that I know overheard people talking that were  
16 involved in my position on recuse, and they said, "We know she's  
17 not going to recuse, but we want to bring it up at her  
18 confirmation."

19 I sit here today telling you that if I had recused, they  
20 would have brought it up with a different philosophy, saying,  
21 "See, she recused. That shows that she still has that  
22 philosophical bent."

23 So, I was between a rock and a hard place. If I recused  
24 or didn't recuse, I would have been in trouble with the unions.  
25 I know that to be a fact.

26 And since my General Counsel gave me the advice not to  
27 recuse, it was not legally or technically necessary, I did not  
28 recuse in that instance on voting on the Hudson regulations.





1 Mr. Lambert make an interesting statement. Bill Lambert  
2 was a father in the school where I taught. Unfortunately -- and  
3 I say that very sincerely -- I never had the privilege of having  
4 any of his children in my class, because I heard nothing but  
5 wonderful things about his children, but I won't belabor that  
6 point. I miss them, and I'm sorry, because I had a lot of  
7 wonderful students, and I'm sorry I didn't have his.

8 He said that I specifically said "meet and confer".  
9 Yes, I said "meet and confer," because I didn't want to take  
10 credit for having experience of meeting and negotiating. I did  
11 not want to deceive this Committee into thinking, "Oh, well, here  
12 I come to PERB, and I've had this marvelous experience of  
13 negotiating." I did it humbly and sincerely to show that -- I  
14 think you could tell that by the way I said it -- it wasn't  
15 negotiating, it was meet and confer. What I meant and what I  
16 implied was, I didn't want to take credit for, you know,  
17 experience that I didn't possess.

18 I also spoke of Professional Educators as being the  
19 nonstriking teachers because I'm not sure that many people in  
20 this room understand the philosophy of our group. We believe  
21 that teachers should have the ability or the right to join or not  
22 to join. And if they join a teacher organization, they join the  
23 organization of their choice. We do not believe in strikes. We  
24 believe in firm but fair discipline, and we believe in the  
25 basics. We write those little beliefs at the masthead of our  
26 newsletter. When I used to be involved with that group, that was  
27 always written on the masthead of the newsletter.  
28



1           So, words are being put in my mouth, and I really take  
2 exception to that fact. And I also take exception to the fact  
3 that I sit here today as a person who's anti-collective  
4 bargaining. I thought I had fully explained that my organization  
5 had no choice other than to testify against the Rodda Act because  
6 it would have mandated a sole bargaining agent, which would have  
7 disenfranchised my group of 7,000 people. That's a sizeable  
8 number of people in the Los Angeles Unified --

9           CHAIRMAN ROBERTI: Do you still have 7,000 members?

10          MS. CORDOBA: No, I'm sorry to say that we have about  
11 2500 only now because our people, at the time of the strike that  
12 lasted four and a half weeks, which was horrendous, in 1970, most  
13 of them at that time -- I'm being very honest and candid -- were  
14 older, more mature, and now they've since retired or are soon  
15 going to retire. Because, I would say, that with a few  
16 exceptions, the youngest one at that time was 40, and that puts  
17 them at being 57 now. So, that's, you know, that's the reason  
18 why we are down in our membership so.

19          Okay. I really feel that the unions, with some  
20 exceptions, are becoming a little hysterical about what they  
21 think that their crystal ball tells them that I'm going to do as  
22 a PERB Board Member. I see that I made one mistake. My attorney  
23 made that marvelous statistical analysis of 16 cases that I've  
24 ruled on. I distributed to all 40 Senators, assuming -- I guess  
25 I shouldn't assume anything; we all know that little story -- I  
26 guess I assumed that the Democrat Senators would give it to the  
27 union people and then they would have the record.  
28





1 I should have sent that record to all the unions that  
2 have spoken here today in opposition to me. That's where I made  
3 a mistake. I have copies with me if anyone would like to see my  
4 16 cases. There's a brief blurb at the bottom of the mention of  
5 each case telling what the disposition of the case -- of the  
6 decision was.

7 I don't have too much longer. I'll keep it as brief as  
8 I possibly can.

9 Oh, yes, I may have testified against the Rodda Act  
10 because of the sole bargaining agent aspect, but it is the law  
11 now. It's been the law since September 22nd, 1975.

12 And since you seem to enjoy my minutiae that I can come  
13 up with, that happened to have been the day that Jerry Brown  
14 signed that bill, September 22nd, 1975, was the birthday of  
15 Howard Jarvis. I just thought you might like to know that  
16 trivia.

17 CHAIRMAN ROBERTI: That is trivia.

18 (Laughter.)

19 MS. CORDOBA: I know that you will not believe the next  
20 statement I'm going to tell you, but I raise my right hand --

21 SENATOR CRAVEN: He's not coming back; is he?

22 MS. CORDOBA: No.

23 (Laughter.)

24 MS. CORDOBA: That was very good, Senator Craven.

25 This is the honest to goodness truth, and excuse me for  
26 taking this liberty but I just must. You'll check it out with  
27 the person I mention, and if he remembers, as I'm sure he will  
28



1 because he has a very marvelous memory, I had the private line to  
2 the Governor's Office phone number. And the night that Governor  
3 Brown was going to sign the Rodda bill, this famous September  
4 22nd, 1975, I thought, "Oh, the number's probably changed. I'll  
5 never get through, but I think I'll dial it."

6 Jerry Brown, very kindly, spent 40 minutes on the  
7 telephone with me, and at that time I knew the Rodda Act, SB 160,  
8 like a Philadelphia lawyer. And we went over this section, this  
9 subsection, and that section and that subsection. And many times  
10 Jerry Brown, himself an attorney, said to me, "Well, I can see  
11 your point on that, Ms. Cordoba, but you'll just have to take  
12 that to court if your group feels that way." He was very  
13 generous with his time. I think he was talking into one of those  
14 boxes -- I don't know the technical name -- because he seemed to  
15 be busy doing other things, but he very well attended to the  
16 task.

17 I just had to tell you that story. Forgive me.

18 Mr. Low, I believe his name was, from the California  
19 School Employees Association, Dave was his first name. I didn't  
20 quite get the last name. He spoke of my testimony in 1980. And  
21 that testimony came about because there were such terrible  
22 adversarial relationships going on in employer-employee  
23 relations, and there was a group of people in Los Angeles that  
24 felt that we needed to have an initiative to, you know, to  
25 squelch some of these terrible adversarial relationships that  
26 were going on.

27  
28



1 I know the people here will be happy to know that that  
2 initiative never got off the ground. I know you'll be happy to  
3 know that.

4 CHAIRMAN ROBERTI: We enough initiatives pending right  
5 now.

6 MS. CORDOBA: Let me see, I've spoken to that issue --  
7 excuse my -- thank you for your indulgences.

8 Oh, yes, in relation to my not having given the unions  
9 represented here today the copy of the 16 cases that I ruled  
10 upon, a gentleman did call from the California -- they represent  
11 the CYA, the California Youth Authority officers and the  
12 correctional officers, and I think their name was the California  
13 Correctional Officers of California.

14 He called and said that they were sort of vacillating  
15 between opposing me or being neutral, and could I tell him a  
16 little bit about myself, and my background, and some of the PERB  
17 decisions that I'd made. We must have spent the better part of a  
18 half an hour on the telephone. And he said as a result of our  
19 conversation that he would not be neutral. I have his name for  
20 you if you'd care to have his name and the exact title of his  
21 organization.

22 The gentleman -- I'm sorry I didn't get everybody's name  
23 that came up and spoke, but he a school board member speaking as  
24 an individual from Hacienda Heights. I believe his first name  
25 was Kim. He said that he wasn't too thrilled about a teacher --

26 SENATOR CRAVEN: Ken Kim.  
27  
28





1 MS. CORDOBA: Oh, Ken Kim. I'm sorry, I thought his  
2 first name was Kim. Thank you very much.

3 He said that he wasn't too, you know, enamored with the  
4 idea of a teacher being -- or an educator being on the PERB  
5 Board. But teachers know the problems of employee-employer  
6 relations. We know about our wages and our working conditions.  
7 We talk with fellow teachers. We know our own feelings on the  
8 subject. So, I would have to take exception to his testimony  
9 about, you know, what he had to say.

10 And besides being a teacher, and a veteran of 30 years,  
11 I've served on the Certificated Employee Council.

12 I think that's about all. I'll just check, if I may.  
13 One last sentence, or two or three.

14 I also point out to you that my having a little agenda,  
15 a hidden agenda if you want to call it that, to change PERB, or  
16 to change the law, runs directly counter to conservative judicial  
17 philosophy. Those of a different philosophical outlook may see  
18 an appointment to a judicial or quasi-judicial position as an  
19 opportunity to go beyond the laws to achieve what they see as  
20 social good.

21 But those of us who oppose judicial activism in this  
22 form are stuck when we receive appointments of a quasi-judicial  
23 or judicial nature, because our respect for the law demands that  
24 we uphold them scrupulously, despite any personal feelings we  
25 might have.

26 I know that it would be hard for you to believe that the  
27 way that I have rendered my 16 decisions from July 15th until  
28



1 about a week ago, I guess, is going to continue in the same vein,  
2 but it is, because as a long-time American citizen, I think the  
3 most important thing is to obey the law.

4 We have three statutes that PERB operates under. We  
5 California statutes, federal statutes. We have prior PERB  
6 decisions. I have 26 volumes of prior PERB decisions, and we  
7 always have to refer to them when we're ruling on a new case.

8 So, all I can say is, I'd like to put the minds of the  
9 people who testified in opposition to me somewhat at ease. I  
10 know they're going to be watching carefully when I continue to  
11 serve on PERB, and I know that they're going to be nervous about  
12 me, but I would like to assure them that I really don't think  
13 that they're going to have anything to be so nervous about  
14 because the law will come first. And I will rule, with the  
15 assistance of of my two very able attorneys, in a very positive  
16 and a very legal manner on all PERB decisions that I make from  
17 now on out.

18 I thank you for this time to have a little rebuttal to  
19 the remarks that were made.

20 CHAIRMAN ROBERTI: Thank you very much, Ms. Cordoba, for  
21 your testimony.

22 Do we hear a motion?

23 SENATOR CRAVEN: I'll move, Mr. Chairman.

24 I want to ask a question, and I'll ask it of you,  
25 please.

26 These are pleasure appointments; are they not?

27 CHAIRMAN ROBERTI: No, I think they are for term.  
28





1 SENATOR CRAVEN: Are they term?

2 MS. MICHEL: Yes, sir, they are for term.

3 SENATOR CRAVEN: The people seem to be serving sort of  
4 staggered, irregular terms. That's why I asked.

5 SENATOR MELLO: Senator Craven and Mr. Chairman, if I  
6 could respond to that question.

7 This is really an unusual case in that her appointment,  
8 which began effective July 15th, takes the place of Nancy Burt,  
9 expires on January 1, '88. The Governor has until February 29th.  
10 She serves until she's replaced or reappointed. She has not been  
11 reappointed as yet. The Governor has until the 19th.

12 What's unique about this is that she would, if the  
13 Governor goes ahead and reappoints her to a full term, another  
14 confirmation hearing would take place in just a few months' time.

15 SENATOR CRAVEN: That answers it. Thank you very much.

16 CHAIRMAN ROBERTI: Maybe we can ditto the vote on the  
17 one at the hearing as well.

18 SENATOR CRAVEN: I move confirmation.

19 CHAIRMAN ROBERTI: Senator Craven moves confirmation of  
20 Betty Cordoba.

21 Senator Mello.

22 SENATOR MELLO: None of us have had a chance to speak to  
23 her because we gave the public --

24 CHAIRMAN ROBERTI: On the motion.

25 SENATOR MELLO: On the motion, I'll be very brief. I  
26 just have a few points that I want to go through.

27  
28



1 When she raised up her union card, I suddenly thought  
2 that all these many unions here that are listed in opposition, I  
3 wondered whether or not they looked at you as a sister and a  
4 member of the union, but based on the 78 different organizations  
5 that are opposed to you and 570 individuals, that's certainly not  
6 the case.

7 What I want to just briefly cover is, you were kind  
8 enough to come to my office the other day, and we did talk on  
9 several issues. When I asked you about collective bargaining,  
10 you responded at that time that you felt that employees should  
11 have the right to either belong or not belong to a union, as I  
12 recall your testimony.

13 And I said, well, that's the right-to-work law that they  
14 have in 30 states, and that's what California defeated in 1958  
15 when the proposal was on the ballot. I think we've moved some 30  
16 years from that concept.

17 I think I stated you correctly. Ms. Michel was there as  
18 well.

19 MS. CORDOBA: May I state that the Educational  
20 Employment Relations Act states -- I don't know the exactly  
21 phraseology and I'm sorry I can't give the section -- but you  
22 have the right not to join. It's right in the EERA Act.

23 And I'm sorry that I don't know the Dills Acts and the  
24 HEERA Act, the specificity, that well.

25 SENATOR MELLO: Part of collective bargaining does  
26 require that if you have a contract, then you have to belong to  
27 the union in an open shop. I mean, I've been an employer and had  
28



1 -- that's neither here nor there, but I think your concept, or at  
2 least your response to me on collective bargaining, showed that  
3 you'd like the option of either joining or not joining the union;  
4 that should be their right.

5 And because of this concept, there's some 30 states that  
6 have right-to-work laws. California's not one of them. And we  
7 spoke about what happens in these states. Most of them are in  
8 the South, but we talked about poverty. People who don't earn a  
9 living wage, they fall into poverty.

10 I stated to you that 42 percent of those in poverty were  
11 children under the age of 17. And you responded in a way  
12 indicating that a lot of that happened because the mothers were  
13 promiscuous.

14 MS. CORDOBA: No, there was a lot more that I said that  
15 led up to that statement.

16 I said they were single family parents, and in many  
17 instances they were unwed mothers. You know, there was a whole  
18 -- I hate to be taken out of the context because then, if you  
19 just give the bottom line of what I said, there's a lot left out  
20 in between.

21 SENATOR MELLO: But I think the thrust of your response  
22 was, the reason we have so many children in poverty is that the  
23 mothers were unwed or were promiscuous; they had children and did  
24 not have the ability to, perhaps, raise them to a different  
25 level.

26 The other thing we mentioned about Mississippi. I gave  
27 that out as an example, because I think it is the poorest state,  
28





1 based on a recent chart. More people are in poverty in  
2 Mississippi than any other state, and you responded by saying you  
3 thought that was because of the demographics.

4 MS. CORDOBA: I said that -- the exact way that I  
5 answered was that I did not think that only because of the  
6 right-to-work state was it a poverty state. As I interpreted,  
7 Senator Mello, if you'll excuse me, as I interpreted what you  
8 were saying was, you were saying that certain states were poverty  
9 states because they were right-to-work states.

10 And later on, I came back and I said, "I think there are  
11 other factors besides them being a right-to-work state that is  
12 connected with the poverty, and one of those factors would be the  
13 demographics."

14 SENATOR MELLO: Yes.

15 The reason we got into that was because the collective  
16 bargaining, I think California does not have the right-to-work as  
17 other states have, but we do have a higher standard of living,  
18 and people, even though we have our share of homeless and poverty  
19 here, at least those that are working in our institutions and in  
20 businesses are making a living wage to some extent. There's a  
21 lot of them that are not.

22 But I think what collective bargaining represents to me  
23 is the chance to negotiate and have an income that people can  
24 live on to raise their families and be more independent. And  
25 without that kind of law, then we fall into what's happening in  
26 so many of our other states. And I think that's not the way we  
27 want to go.  
28



1           So I thank you. I just wanted to reiterate some of  
2 those statements that were discussed.

3           CHAIRMAN ROBERTI: Thank you, Senator Mello.

4           Any further observations?

5           Senator Craven has a motion before us to move the  
6 confirmation do pass and to the Floor.

7           Secretary will call the roll.

8           SECRETARY WEBB: Senator Ellis.

9           SENATOR ELLIS: Aye.

10          SECRETARY WEBB: Senator Mello.

11          SENATOR MELLO: No.

12          SECRETARY WEBB: Senator Petris. Senator Craven.

13          SENATOR CRAVEN: Aye.

14          SECRETARY WEBB: Senator Roberti.

15          CHAIRMAN ROBERTI: No.

16          The vote is two to two.

17          SENATOR CRAVEN: May we move this to the Floor, Mr.  
18 Chairman, without recommendation?

19          CHAIRMAN ROBERTI: Senator Craven moves that the  
20 confirmation be moved to the Floor without recommendation.

21          Secretary will call the roll.

22          SECRETARY WEBB: Senator Ellis.

23          SENATOR ELLIS: Aye.

24          SECRETARY WEBB: Senator Mello.

25          SENATOR MELLO: No.

26          SECRETARY WEBB: Senator Petris. Senator Craven.

27          SENATOR CRAVEN: Aye.  
28





1 SECRETARY WEBB: Senator Roberti.

2 CHAIRMAN ROBERTI: Aye.

3 The vote is three to one; confirmation is moved to the  
4 Floor without recommendation.

5 SENATOR CRAVEN: Thank you, sir.

6 MS. CORDOBA: I would like to thank all of you very much  
7 for the time.

8 CHAIRMAN ROBERTI: Fine, thank you.

9 (Thereupon this portion of the  
10 Senate Rules Committee hearing  
11 was terminated at approximately  
12 6:20 P.M.)

13 --oo0oo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

19<sup>th</sup> day of January, 1988.

  
EVELYN MIZAK  
Shorthand Reporter









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HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

*Legislative*

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SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, JANUARY 20, 1988

17 1:50 P.M.  
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25

26 Reported by:

27 Evelyn Mizak  
28 Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR JIM ELLIS

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

EARL J. CANTOS, Member  
Board of Governors of the California Community Colleges

KENNETH L. GIBSON, Director  
Department of Commerce

TIMOTHY P. HAIDINGER, Member  
Board of Governors of the California Community Colleges

JOSEPH LEVY, Member  
California Transportation Commission

SCOTT F. WYLIE, Member  
Board of Governors of the California Community Colleges



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P R O C E E D I N G S

--oo0oo--

SENATOR PETRIS: The meeting of the Rules Committee will come to order.

Call the roll.

SECRETARY WEBB: Senator Ellis.

SENATOR ELLIS: Here.

SECRETARY WEBB: Senator Mello.

SENATOR MELLO: Here.

SECRETARY WEBB: Senator Petris.

SENATOR PETRIS: Here.

SECRETARY WEBB: Senator Craven. Senator Roberti.

SENATOR PETRIS: In the absence of both the Chair and the Vice Chair, I've been asked to pinch hit, at least for a while. Senator Roberti hopes he will be in shortly.

(Thereupon legislative agenda items were acted upon by the Committee.)

SENATOR PETRIS: We'll go on to the Governor's Appointees appearing today, Mr. Cantos.

Hi, Judge.

You have been appointed by the Governor, or nominated I should say, to the Board of Governors of the Community Colleges.

The customary question we ask is to explain to us why you feel you're qualified to serve in that capacity?

So the custom is, you start off with a statement of your own, and then we invite questions and comments from the general public as to whether they're supportive or not for that position.



1 MR. CANTOS: Thank you.

2 First of all, I've had a lifelong interest in education,  
3 and since I've retired from the bench, I felt that this would be  
4 an opportunity to pursue that further in offering my service.  
5 So, when that opportunity presented itself, I felt very  
6 privileged that I would have that opportunity.

7 I've been particularly interested in community colleges,  
8 having taught at the same years ago as a young attorney. I  
9 taught real estate law, and saw what the community colleges can  
10 do for a lot of people. Most of the people in my class were  
11 people that were attempting to secure real estate licenses or do  
12 something to further themselves.

13 SENATOR PETRIS: Was this at a community college?

14 MR. CANTOS: Yes, at the community college level.

15 And I enjoyed that, and I've always enjoyed the  
16 educational process. I'm just looking forward to this service.

17 Basically, that's it.

18 SENATOR PETRIS: Would you call yourself a strong  
19 supporter of our community college system?

20 MR. CANTOS: Yes.

21 SENATOR PETRIS: Will you fight for beefing up of their  
22 budget when it seems to be necessary?

23 It's been a bone of contention between the Legislature  
24 and the Governor in recent years. Some Members feel that he  
25 really hasn't given enough support to the community colleges over  
26 the last few years.

27

28





1 I don't mean to put you in contention between the two,  
2 but as a Board Member, if you perceive some serious shortfalls,  
3 would make yourself heard --

4 MR. CANTOS: Oh, yes.

5 SENATOR PETRIS: -- to improve the budget for the  
6 community colleges?

7 MR. CANTOS: Yes.

8 The question being simply, do I think community colleges  
9 ought to get more money, the answer is a resounding yes. I don't  
10 think they get enough between the three systems, frankly.

11 SENATOR PETRIS: Well, that's the basic question, but it  
12 has to be narrower than that here.

13 MR. CANTOS: Okay.

14 SENATOR PETRIS: The man downstairs is the one who  
15 determines that, and he's the one that's appointing you. And  
16 he's the one that has to have his attention grasped somehow or  
17 other on this.

18 The question is, would you be willing to go to him and  
19 say, "Governor, we're in trouble here. We need more money for  
20 these particular reasons."

21 MR. CANTOS: If I thought he would listen to me, I  
22 certainly would, and I'd go even if I didn't think he would  
23 listen to me.

24 SENATOR PETRIS: Any questions by Members? Senator  
25 Mello.

26 SENATOR MELLO: Mr. Chairman, just to follow up on your  
27 question.



1           It's been a concern to all of us about the funding. In  
2 the past years the administration would say: Well, we have a  
3 study going on for the Master Plan Review Commission. In those  
4 days, our community colleges got far less than even cost of  
5 living increases. I have five in my own district, and I know how  
6 they've all lost enrollment; they've cutback on curriculum. Fees  
7 have been put in place.

8           Now that the Master Plan Review Commission has rendered  
9 its report, and no doubt you've seen that report that recommends  
10 close to a hundred recommendations, what's your feeling about  
11 their recommendations?

12           MR. CANTOS: I thought overall they did a masterful job,  
13 long over due.

14           I just received in the mail the revisited new package of  
15 several volumes. I haven't had a chance to go over all of them  
16 in great detail, but I've read the Master --

17           SENATOR MELLO: Check to see if that microphone's  
18 plugged in or not.

19           MR. CANTOS: I haven't had a chance to study the final  
20 volumes that have been delivered, but I've read all the material  
21 as it comes along. And I think that I don't find too many things  
22 that I have a quarrel with.

23           SENATOR MELLO: I've had my own colleges ask me, "Who in  
24 the administration is so opposed?" Everybody took it as a  
25 personal thing that they were being left out of funding, while  
26 the University of California and our State Universities got quite  
27 a bit more.  
28



1           And I think what I see lacking is, there's really not a  
2 strong rooting section from within the administration. Perhaps  
3 the Board of which you are serving will be the one that,  
4 hopefully, can influence him more to make sure that they get  
5 parity and they get equal treatment with funding that our other  
6 universities are able to get.

7           I see the community colleges, as I believe you do, as a  
8 vital link between high schools, and universities, and also  
9 continuation vocational training, and even later on, adult  
10 education, where many business people will go to the community  
11 colleges. They're right in our own district, so therefore  
12 they're more convenient to go to.

13           By they've been really shortchanged, in my opinion, for  
14 being able to meet their needs.

15           MR. CANTOS: I couldn't agree with you more, and I would  
16 hope that I would be able to speak to that issue, and I have on  
17 the few occasions that it's presented itself at Board meetings.

18           SENATOR MELLO: Thank you very much.

19           SENATOR PETRIS: Senator Ellis.

20           SENATOR ELLIS: Judge Cantos, as you know, is from San  
21 Diego. He's an outstanding jurist for 20-odd years. Not only  
22 that, today probably is devoting a considerable amount of time to  
23 civic activities. He's very highly regarded in the community.

24           It's a pleasure to make the motion that he be confirmed.

25           SENATOR PETRIS: I'm sorry, I missed the last part.

26           SENATOR ELLIS: Judge Cantos is an outstanding member of  
27 the community of San Diego. He's not only known as an  
28





1 outstanding judge for over 20 years, but he's also devoted a  
2 considerable amount of time to civic activities in the county.  
3 He devotes a great deal of his personal time to those.

4 It's a pleasure for me to make the motion.

5 SENATOR PETRIS: I was going to call on you for the  
6 motion since he's from your district, except that I would be  
7 fighting for you for the privilege.

8 I want to join in with you in the motion, if that's  
9 permissible.

10 But I do have one other area of questions, if I may.

11 I'm impressed by the fact that the Judge has taught at a  
12 community college and grasps, you know, the importance of it as a  
13 faculty member. I think that's very important.

14 So, we're essentially bringing somebody out of the  
15 classroom on to the Board, and I think that will be very, very  
16 helpful.

17 The one question I had is, on the statement made by the  
18 outgoing Chancellor, Mr. Smith, when he resigned last year. He'd  
19 only been on the job for two years. That was before you got on  
20 it.

21 He was very frustrated with the bureaucratic nature of  
22 the job and the slow pace of reform. And in his resignation  
23 statement, he makes the following comment:

24 "As one who came to California seeing  
25 it as a state known for experimentation,  
26 known for serving its people, I must say  
27 I've been surprised that it seemingly  
28



1           takes longer to make changes here than  
2           it did in those hidebound, tradition-  
3           bound place where I used to be."

4 Is that a valid comment today as you sit on the Board?

5           MR. CANTOS: I don't know what he meant by that, whether  
6 he was quarrelling with the legislative process or the system.

7           I feel that you have to work within the rules of the  
8 game. And if you must come to the Legislature, or if you must  
9 present your case, or make a case, that's what you have to do  
10 because that's what it takes. You don't get something simply for  
11 asking for it.

12           What he meant by that, I don't know, sir. I never --

13           SENATOR PETRIS: That's probably what I meant when I  
14 asked if you'd go to the Governor if you felt it was necessary to  
15 get the money.

16           MR. CANTOS: I would.

17           SENATOR PETRIS: It's all under the same umbrella.

18           MR. CANTOS: I think so.

19           SENATOR PETRIS: Now, is there anyone in the audience  
20 who desires to testify either in favor or in opposition to this  
21 appointment?

22           Hearing none, we have a motion by Senator Ellis. Call  
23 the roll.

24           SECRETARY WEBB: Senator Ellis.

25           SENATOR ELLIS: Aye.

26           SECRETARY WEBB: Senator Mello.

27           SENATOR MELLO: Aye.





1 SECRETARY WEBB: Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Three to zero.

4 SENATOR PETRIS: Confirmation is recommended. The next  
5 step is the Floor. I wish you luck.

6 MR. CANTOS: Thank you kindly.

7 SENATOR PETRIS: The next person is Mr. Kenneth Gibson,  
8 Director of Commerce.

9 Mr. Gibson, we traditionally ask the same question,  
10 which in effect is, why do you feel you ought to be there?

11 MR. GIBSON: Senator, I have spent my entire working  
12 career in California. I was 21 years with the Kaiser Steel  
13 Corporation, working both in the Bay Area and at the mill site at  
14 Fontana.

15 I worked with an industry that was a declining industry  
16 in this state. I think it gave me certainly a perspective of  
17 some of the frustrations and problems of doing business in  
18 California, and there are problems. There are many more  
19 opportunities than problems, however.

20 In the last five years of my tenure with the company, I  
21 held an executive position which provided an opportunity for a  
22 considerable foreign involvement overseas on behalf of the  
23 company. I was responsible for the company's government  
24 relations. I did a great deal of work on behalf of the company  
25 in Washington, D.C.

26 I think all of these things have come together to bring  
27 a perspective to this job from the private sector which I think  
28



1 is very important and which I'm very anxious to be able to  
2 provide to this position.

3 SENATOR PETRIS: I notice you have an A.B. Degree in  
4 philosophy from Princeton.

5 How does that square with being a tough, hardheaded,  
6 practical businessman?

7 MR. GIBSON: I've found that there were times in the  
8 steel industry when it came in very handy.

9 SENATOR PETRIS: As you're going down the tubes, huh?

10 MR. GIBSON: Exactly.

11 (Laughter.)

12 MR. GIBSON: You had to look upon things rather  
13 philosophically or you were probably in for some emotional  
14 distress.

15 No, I think that degree has served me well through the  
16 years, and I'm very proud of it.

17 SENATOR PETRIS: Well, I tell you, I had a very  
18 remarkable comment made to me in answer to a question recently in  
19 Italy.

20 I was seated at a table with the president and the top  
21 management of a corporation there which we were visiting. And  
22 they introduced the managing director, who looked like either the  
23 old stereotype of a professor, with this hair out here, or a  
24 violinist, as they say. He looked really like a deep thinker,  
25 with tousled hair and tousled suit.

26 And I asked the president, "This fellow looks like a  
27 philosopher or a professor of some kind. How do you get him?  
28 Why do you pick him to be your manager?"



1 He said, "That's exactly what he is. But if you'll  
2 notice the economy of Italy, it's really basically a pretty poor  
3 country. We don't have anything to export. We're not rich in  
4 natural resources. So, we have to fall back on our thinkers."

5 And that's why the great exports of Italy are in the  
6 field of creative ideas -- styles, and fashions, the great  
7 automobiles, one of which our Speaker drives around in, for  
8 example, from time to time.

9 And he named three or four other items like that for  
10 which Italy is famous. He said, "That's why we have him here."

11 So, we need philosophers in our industry, too, I'm sure.

12 Any questions by any of the Members?

13 SENATOR ELLIS: I'd move the appointment.

14 SENATOR PETRIS: We have a motion.

15 Any comments from members of the audience?

16 May I just take a moment for a couple of things I have  
17 marked here. One is the small business.

18 For years, I've been carrying legislation trying to help  
19 small business and open up more opportunities for people in small  
20 business and so forth. And I notice that there hasn't been any  
21 increase in the budget proposed by the Governor in the small  
22 business category.

23 I see that as a flaw. I think the record is clear. The  
24 overwhelming majority of jobs in this state are generated by  
25 small businesses as opposed to big ones. And I think that over  
26 the years, we really haven't paid enough attention.





1 Do you agree with that, or are you comfortable with no  
2 increase in that budget? Are you looking forward to trying to  
3 get it expanded?

4 MR. GIBSON: No, I'm not comfortable, and yes, I'm  
5 looking forward to trying to get it expanded. I couldn't agree  
6 with you more.

7 When I came into the Department, I think one of the  
8 areas that very quickly became a priority, based on what I could  
9 observe, was our small business efforts. The Department actually  
10 had only -- the Office of Small Business only had a Director at  
11 that time. This was in June. It had only had a Director for  
12 about three months. It had go without a Director for about 18  
13 months.

14 And I think, frankly, it is up to the interested  
15 Department to state its case to the Governor, and state it in a  
16 very compelling fashion. And until that happens, you're going to  
17 see what you see there.

18 I think it's up to us to state the case much more  
19 compellingly than it has been previously.

20 SENATOR PETRIS: Are you planning to do that?

21 MR. GIBSON: That's what we intend to do, exactly.

22 SENATOR PETRIS: One other area is, we've been suffering  
23 from some very severe setbacks: the loss of the Super Collider  
24 and Sematech, whatever it is, that went to Austin.

25 MR. GIBSON: Right.

26 SENATOR PETRIS: Which are really your babies. I'm not  
27 blaming you for it, but I'm saying you have direct responsibility  
28 in that area.



1 Are you doing anything to try to help turn this thing  
2 around and make sure we don't get further reverses down the road?

3 MR. GIBSON: We really are. Of course, each of those  
4 two examples have their own issues attendant to them.

5 But I think in a generic sense, it's very much up to the  
6 Department to establish a program, which again we are doing, to  
7 increase the focus that we have on our high tech industries, to  
8 increase our attention to technology transfer programs, to get  
9 more of our technology which we have in this state -- in our  
10 campuses and our laboratories -- into the private sector, into  
11 our small business.

12 We're developing a program at this moment that I think  
13 is very, very responsive to this.

14 SENATOR PETRIS: What about coordination? There seems  
15 to be a need for coordination between your Department, and the  
16 Governor's Office, and the Legislature, all of us share.

17 MR. GIBSON: I think if there's any one lesson to have  
18 been learned out of both of these, and certainly the Sematech  
19 issue is an example, it is that we have got to make a better case  
20 for ourselves from the standpoint of our total state effort.

21 And that doesn't just include the Legislature and our  
22 office. It also includes our business community, for example. I  
23 think we have got to marshal the private sector much better than  
24 we have before to get behind these projects.

25 I think if you look at what happened with the success of  
26 Texas getting Sematech, one of the major reasons why they did was  
27 because their private sector got together and said: We're going  
28 to get this, and they did.





1           SENATOR PETRIS: One comment they made was that they  
2 were a little shaky in their confidence in us with respect to our  
3 plans for future education.

4           MR. GIBSON: I didn't hear that comment come back.

5           I heard two things relative to the Austin success. One  
6 was that the business community was -- put forward a very  
7 concerted effort. And actually, this was after the State  
8 Legislature had been unable to get a bill passed.

9           And secondly, of course, the federal delegation, the  
10 Congressional delegation: the Speaker, Senator Bentsen.

11          SENATOR PETRIS: It helps to have the Speaker.

12          MR. GIBSON: And their own local Congressman did a  
13 tremendous job.

14          But I think that's all of our jobs, is to marshal those  
15 kind of forces.

16          SENATOR PETRIS: I think we all agree that that requires  
17 some very, very serious and intensive work.

18          MR. GIBSON: Absolutely.

19          SENATOR PETRIS: Any other questions?

20          We have a motion. Call the roll.

21          SECRETARY WEBB: Senator Ellis.

22          SENATOR ELLIS: Aye.

23          SECRETARY WEBB: Senator Mello.

24          SENATOR MELLO: Aye.

25          SECRETARY WEBB: Senator Petris.

26          SENATOR PETRIS: Aye.

27          SECRETARY WEBB: Three to zero.  
28





1 SENATOR PETRIS: Confirmation is recommended to the  
2 Floor.

3 MR. GIBSON: Thank you very much.

4 SENATOR PETRIS: I wish you luck.

5 MR. GIBSON: Thank you.

6 (Thereupon legislative agenda items  
7 were acted upon by the Committee.)

8 SENATOR PETRIS: Next, an appointment to the Board of  
9 Governors, California Community Colleges, Mr. Haidinger.

10 Is that the right pronunciation?

11 MR. HAIDINGER: It's closer than I often get.

12 SENATOR PETRIS: Tell us why you want to be on the  
13 Board.

14 MR. HAIDINGER: Why I want to be on the Board.

15 SENATOR PETRIS: Well, what your qualifications are.  
16 Why you feel qualified?

17 MR. HAIDINGER: My qualifications are that I have taught  
18 college for two years full-time. I have also taught at the State  
19 University system part-time.

20 I spent 13 years as a management consultant with one of  
21 the major public accounting firms doing consulting work to a  
22 variety of business and government agencies, in particular to  
23 school districts. .

24 I think from that experience, I have learned a good deal  
25 about the operation of educational organizations and can bring  
26 that to bear here.

27

28



1           SENATOR PETRIS: Are you involved in continuing  
2 education of the CPAs?

3           MR. HAIDINGER: No, I'm not.

4           SENATOR PETRIS: Do you think it's a good program?

5           MR. HAIDINGER: I think it is a good program, uh-huh.

6           SENATOR PETRIS: Any questions, Senator Ellis?

7           I'll ask you the same questions I asked the other  
8 nominee regarding support for community colleges.

9           Have you, prior to this, have you had any association  
10 with the community colleges, or did you say you taught there?

11          MR. HAIDINGER: Not in the community colleges, no. I  
12 taught at a university and at the State College system.

13          SENATOR PETRIS: So as a teacher --

14          MR. HAIDINGER: I did not teach in the community  
15 colleges.

16          SENATOR PETRIS: What is your feeling? Do you feel that  
17 the community colleges are about where they should be? Do we  
18 need to intensify our efforts in their direction? We're in the  
19 process of redesigning our goals.

20          MR. HAIDINGER: I think that community colleges are a  
21 very valuable and in a lot of ways misunderstood part of our  
22 educational system. I think one of the roles of our Board is to  
23 try to improve the reputation of community colleges, and I hope  
24 we will be able to do that.

25          I think with the amount of immigration we have into this  
26 state, they are an essential vehicle to educating people coming  
27 to this country, many of whom don't even speak the language, and  
28 make them productive members of the community.



1           Should I talk a little louder?

2           SENATOR PETRIS: Yes, I guess we've got some  
3           temperamental mikes today.

4           MR. HAIDINGER: Yes, I think they're very important.

5           SENATOR PETRIS: We have some great electronic engineers  
6           here.

7                           (Laughter.)

8           MR. HAIDINGER: We have some very fine students who are  
9           learning about audiovisual problems that might be able to come  
10          over and help.

11                          (Laughter.)

12          SENATOR PETRIS: How long have you been on it so far?

13          MR. HAIDINGER: I believe May or June was the first  
14          meeting that I attended.

15          SENATOR PETRIS: In the short time you've been there, if  
16          I were to give you the authority to just do anything you want to  
17          improve the whole system, what would your first move be?

18          MR. HAIDINGER: My first move would be to -- well, what  
19          I would try to do is to find ways to improve the credibility of  
20          the Board with the Legislature. I think that's the area where we  
21          need most to improve.

22                 What I'm finding is that many of the decisions that are  
23          being made about community colleges are being made here and are  
24          not really being made at the Community College Board level. And  
25          I think that puts a burden on you ladies and gentlemen that,  
26          perhaps, you don't need and don't want, and makes our time  
27          relatively ineffective.

28





1 I would like to find ways that we can increase our  
2 credibility with you, and therefore, hopefully, be a better arm  
3 for the -- better regulatory arm.

4 SENATOR PETRIS: Does the system have enough resources  
5 to meet the statutory obligations that it has?

6 MR. HAIDINGER: Well, I think some parts of it do and  
7 some don't.

8 To be honest with you, I get a little tired sometimes at  
9 the number of studies that we have. We seem to be studying  
10 things to death.

11 On the other hand, I think there are things that need to  
12 be done in the way of construction of facilities, of teacher  
13 hiring, that needs more money, considerably more money. And I'd  
14 like to see it in those areas.

15 So, I think there's some areas that perhaps we're doing  
16 a little more than we should, and there are many areas where  
17 we're not doing an adequate job.

18 SENATOR PETRIS: How do we get more money?

19 MR. HAIDINGER: Well, I think we talk to you, and we  
20 talk to the Governor, and we build a consensus for that.

21 SENATOR PETRIS: Are you willing to do both?

22 MR. HAIDINGER: Certainly.

23 SENATOR PETRIS: Forcefully?

24 MR. HAIDINGER: As forcefully as I can.

25 SENATOR PETRIS: Pounding on the table?

26 MR. HAIDINGER: Well, that doesn't work too well, I  
27 suspect.  
28



1           SENATOR PETRIS:   Senator Mello.

2           SENATOR MELLO:   I think the Chairman has the same  
3 concern.

4           I think Mr. Cantos made some real positive and strong  
5 statements about what's needed in our community colleges, and I  
6 think you recognize what the problems are.

7           I think it's no secret that the Governor has really not  
8 funded our community colleges up until this year's budget. We  
9 need some strong voices on that Board.

10          What we've done, we've put money into the budget, but he  
11 just blue pencils it out. So, I think it has to come from  
12 somebody who, perhaps, can influence him more than the  
13 Legislature.

14          I'm hoping you would be one of those persons.

15          MR. HAIDINGER:   My sense, Senator, and perhaps I'm going  
16 beyond the kind of answer you're looking for here, but my sense  
17 is that one of the reasons for that is -- or at least as far as  
18 our Board is concerned -- I think we have not established for  
19 ourselves the credibility with the Governor that if we say money  
20 is needed, indeed we have the facts to support that request.

21          And my efforts -- and I am Chairman of our Budget  
22 Finance Committee, and I have a finance background -- my efforts  
23 are going to be to be sure that when we ask for money, we have  
24 the facts to support the request so that the Governor will pay  
25 some attention to us. I hope that we'll be able to do that.

26          SENATOR MELLO:   Do you think that you have the  
27 information now to be able to make that kind of decisions?  
28





1 MR. HAIDINGER: I think we probably have the information  
2 scattered somewhere around, but it is not well accumulated and  
3 well presented.

4 SENATOR MELLO: From my own perspective, you may have  
5 heard, I indicated I have five community colleges in my district.  
6 And in every category, there is serious underfunding. I'm  
7 talking to their comptrollers, the business office, and the  
8 presidents, superintendents. There's been a cutback in  
9 enrollment, mainly because of classes not being available. Once  
10 they're filled up, there's just no more classes.

11 Their ADA is based on a cap that doesn't allow for  
12 growth. I think even this year's budget has about a 4½ percent  
13 cap on the amount of growth. That way, if they take in 5 percent  
14 more, then they only get paid for 4½ percent, and that money has  
15 to be taken out of other existing programs.

16 Secondly, the curriculum has changed a lot in the last  
17 six years. The class offerings, no longer do they have the broad  
18 variety of classes that are needed within our communities to help  
19 everyone out. And repairs and maintenance are seriously  
20 deficient.

21 And of course on student fees, I was opposed to them. I  
22 don't see that as a major problem for cutting back, but they're  
23 charging high fees for parking and other programs just to stay  
24 alive.

25 That's what I get from my district, and I don't see any  
26 difference statewide. When they come up here to talk to us --  
27 the administrators are here today in Sacramento or yesterday,  
28 rather -- it's the same story. They're seriously underfunded.





1 I would just hope that the governing Board gets access  
2 to all this information and make your own decision based on the  
3 kind of quality we want to deliver in our community colleges,  
4 which I think right now, we've slipped a lot in the last five or  
5 six years.

6 MR. HAIDINGER: The place, Senator, that I think we're  
7 falling down on, and I agree with all the things you've said, but  
8 where I think we're falling down is that our Board is often in  
9 the position of listening to a variety of information and  
10 requesting more money in all areas. Almost anything that is a  
11 request for more money, we approve and pass on.

12 So what we do is send to you and send to the Governor  
13 considerably more requests in all areas than we can expect to be  
14 funded. And then we leave it to you and the Governor to make the  
15 decisions on what to fund.

16 I'd like to see us in a position where we identified  
17 some very serious priorities where we believe additional money is  
18 badly needed, and work very hard for those areas, and hopefully  
19 obtain the money. And when that problem is solved, move to  
20 another problem. But find a way to be effective in the process  
21 ourselves.

22 I think what we're doing now is, in many cases, just  
23 rubber stamping all requests for money; letting somebody else be  
24 the bad guy who says no.

25 We need to focus our efforts, and I think we'll help  
26 accomplish exactly what you're trying to address here.

27  
28



1           SENATOR MELLO: Another thing that's occurring in my  
2 area and, I think, in many other areas, minority students are  
3 under-represented. We're just not reaching out to try to bring  
4 in Hispanics or Blacks and other ethnic groups, I believe even  
5 Asians. That would bring, you know, a parity to the number of  
6 people that are represented in that category.

7           Many of the problems are transportation, economics,  
8 whether or not the Student Aid Program is adequate enough to help  
9 allow entry into our community colleges.

10          I think we have to look seriously at how we are reaching  
11 a cross-section of students that want to come into our colleges.  
12 They can't afford to go away from home into a four-year  
13 university, where you have a much higher tuition, you have higher  
14 away from home living costs.

15          I just think the drop off of student enrollment in the  
16 last five years has been from about a million two or three  
17 thousand students down to about seven hundred thousand now.  
18 We've lost close to half a million students in our community  
19 colleges.

20          MR. HAIDINGER: I agree. The figures I've seen show  
21 that the Oriental students are very well represented, but the  
22 Hispanic and Black are not.

23          I certainly agree, it's the entry point to the  
24 educational system for many of those students, many of those  
25 people.

26          SENATOR MELLO: Thank you.

27          SENATOR PETRIS: Senator Ellis.  
28





1 SENATOR ELLIS: Move the appointment.

2 SENATOR PETRIS: Senator Ellis has made a motion.

3 Anyone in the audience that desires to testify for or  
4 against the nomination?

5 Call the roll.

6 SECRETARY WEBB: Senator Ellis.

7 SENATOR ELLIS: Aye.

8 SECRETARY WEBB: Senator Mello.

9 SENATOR MELLO: Aye.

10 SECRETARY WEBB: Senator Petris.

11 SENATOR PETRIS: Aye.

12 SECRETARY WEBB: Three to zero.

13 SENATOR PETRIS: Good luck.

14 Now we have Mr. Joseph Levy for the Transportation  
15 Commission.

16 SENATOR MELLO: He's somebody we've got to work over.

17 MR. LEVY: Good afternoon, Senator.

18 SENATOR PETRIS: Can you tell us why you feel you're  
19 qualified to serve in this capacity?

20 MR. LEVY: Well, I've been on the Commission now for the  
21 last almost five years.

22 SENATOR PETRIS: You've been through this hot seat  
23 before?

24 MR. LEVY: Yes, I have.

25 I find it a very exciting Commission; one that I've seen  
26 tremendous progress in our transportation system over the last  
27 five years. And one I hope I will get a chance to continue, at  
28 least for the next three.





1 SENATOR PETRIS: With some more improvements?

2 MR. LEVY: To keep it going.

3 SENATOR PETRIS: Any questions?

4 SENATOR MELLO: I just wanted to say, Mr. Chairman, I  
5 remember him at the last hearing we had. He's one person that  
6 really comes out into the area.

7 He's been in my district many times looking at our road  
8 problems. I just really appreciated how he takes the time,  
9 outside of his regular duties here, and goes out and looks at on  
10 the job safety problems and blood alleys that we have, and the  
11 needs.

12 I know that Barbara Shipnuck from our Board of  
13 Supervisors and others have written expressing strong support for  
14 his reconfirmation.

15 I'm happy to join with them.

16 SENATOR PETRIS: Senator Ellis.

17 SENATOR ELLIS: Move the confirmation.

18 SENATOR PETRIS: All right.

19 Does anyone desire to testify?

20 Call the roll.

21 SECRETARY WEBB: Senator Ellis.

22 SENATOR ELLIS: Aye.

23 SECRETARY WEBB: Senator Mello.

24 SENATOR MELLO: Aye.

25 SECRETARY WEBB: Senator Petris.

26 SENATOR PETRIS: Aye.

27 SECRETARY WEBB: Three to zero.



1           SENATOR PETRIS: Pretty tough going.

2           MR. LEVY: Thank you.

3           SENATOR PETRIS: Good luck.

4           SENATOR MELLO: Mr. Chairman, I'm called to present a  
5 bill. If you could operate as a subcommittee, I'll be back very  
6 shortly.

7           SENATOR PETRIS: And I have to leave also. We have one  
8 more to go.

9           Our last one is Community College, Mr. Wylie, Scott  
10 Wylie.

11          SENATOR ELLIS: Senator Mello asked if we could open the  
12 roll so he can vote. Is that all right?

13          SENATOR PETRIS: Sure.

14          SENATOR ELLIS: I'd move the confirmation.

15          SENATOR PETRIS: All right, you move the confirmation.  
16 Call the roll.

17          SECRETARY WEBB: Senator Mello.

18          SENATOR MELLO: Aye.

19          Also, could you make a motion of the others not required  
20 to appear?

21          SENATOR ELLIS: Also move the confirmation  
22 recommendation for those who are not required to appear.

23          SENATOR PETRIS: Yes, let's call the roll on that.

24          SECRETARY WEBB: Senator Ellis.

25          SENATOR ELLIS: Aye.

26          SECRETARY WEBB: Senator Mello.

27          SENATOR MELLO: Aye.  
28





1 SECRETARY WEBB: Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Three to zero.

4 SENATOR PETRIS: That carries.

5 Now, Mr. Wylie, tell us why the entire system for the  
6 community colleges would break down if you were not a Board  
7 Member?

8 (Laughter.)

9 MR. WYLIE: I wish I could imagine that possibility.

10 I've spent most of my professional life in the private  
11 sector. Most of that activity has been concerned with a variety  
12 of personnel tasks and chores for a number of companies. Most  
13 recently with a large high technology manufacturer here in  
14 California.

15 And in that regard, I've been involved in the actual  
16 delivery of training from time to time. I've been very much  
17 involved with linking us to our local community colleges; we as  
18 an employer. We also as the employer are interested in providing  
19 training to our own employees.

20 So, I have some exposure to them as a member of the  
21 private sector.

22 I'd also like to point out, it has been a delight for me  
23 over the last three years to be a member of a novel group created  
24 by a local business organization, the Bay Area Council. I was  
25 the initial Chair of a group that put community college people  
26 and private sector people in a room together to talk about how we  
27 could better work with each other. It's a group that is still  
28



1 active and still flourishing. It has taught me a great deal, and  
2 one that I'm still a very enthusiastic member of.

3 SENATOR PETRIS: Where do you live?

4 MR. WYLIE: Menlo Park.

5 SENATOR PETRIS: All right.

6 Any questions or comments?

7 SENATOR ELLIS: Move confirmation.

8 SENATOR PETRIS: Senator Ellis moves confirmation.

9 Anyone in the audience desiring to testify?

10 Call the roll.

11 SECRETARY WEBB: Senator Mello already voted.

12 SENATOR PETRIS: He did, that's right.

13 SECRETARY WEBB: Senator Ellis.

14 SENATOR ELLIS: Aye.

15 SECRETARY WEBB: Senator Petris.

16 SENATOR PETRIS: Aye.

17 SECRETARY WEBB: Three to zero.

18 SENATOR PETRIS: Confirmation is recommended.

19 MR. WYLIE: Thank you, sir.

20 SENATOR PETRIS: Good luck.

21 (Thereupon this portion of the  
22 Senate Rules Committee hearing was  
23 terminated at approximately 2:45 P.M.)

24 --oo0oo--  
25  
26  
27  
28



CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

26<sup>th</sup> day of January, 1988.

  
EVELYN MIZAK  
Shorthand Reporter









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HEARING  
SENATE RULES COMMITTEE  
STATE OF CALIFORNIA  
*Legislature*

STATE CAPITOL  
ROOM 113  
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 27, 1988  
1:50 P.M.

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1 HEARING  
2 SENATE RULES COMMITTEE  
3 STATE OF CALIFORNIA  
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10 STATE CAPITOL  
11 ROOM 113  
12 SACRAMENTO, CALIFORNIA  
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16 WEDNESDAY, JANUARY 27, 1988

17 1:50 P.M.  
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26 Reported by:

27 Evelyn Mizak  
28 Shorthand Reporter





APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM ELLIS

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

SENATOR HERSCHEL ROSENTHAL, Chairman  
Senate Energy and Public Utilities Committee

RICHARD A BILAS, Member  
Energy Resources, Conservation and Development Commission

WELBY A. CRAMER, Member  
Youthful Offender Parole Board

BENJAMIN G. DAVIDIAN, Chairman  
Agricultural Labor Relations Board

ROBERT J. NORRIS, JR., Associate Director  
Century Freeway Housing Program

ALICE L. STONER, Member  
State Personnel Board

ERIC D. VEGA  
Mexican American Legal Defense and Educational Fund



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P R O C E E D I N G S

--oo0oo--

1  
2  
3 SENATOR CRAVEN: I call the meeting of the Rules  
4 Committee to order.

5 Call the roll.

6 SECRETARY WEBB: Senator Ellis.

7 SENATOR ELLIS: Here.

8 SECRETARY WEBB: Senator Mello.

9 SENATOR MELLO: Here.

10 SECRETARY WEBB: Senator Petris. Senator Craven.

11 SENATOR CRAVEN: Here.

12 SECRETARY WEBB: Senator Roberti. Three present.

13 SENATOR CRAVEN: Let's go to the Governor's Appointees  
14 appearing today. The first is Richard A. Bilas, Member, Energy  
15 Resources, Conservation and Development Commission.

16 Are you in the audience? Would you please come forward,  
17 state your name for the record, and tell the Members of the  
18 Committee why you feel that you are qualified for this very  
19 important position.

20 MR. BILAS: Thank you, Senator.

21 For the record, my name is Richard Bilas, B-i-l-a-s.

22 For the past ten years, I think it's fair to say that  
23 the energy industry, at least important segments of it, are  
24 changing significantly. We are moving from an era of regulation  
25 to one of deregulation, whether we choose to like this or not.

26 In 1965, I received a Ph.D. in Economics from the  
27 University of Virginia, and for the past 30-some odd years -- or,  
28



1 excuse me, my arithmetic is wrong -- 25 years I have been in  
2 academics. I have been on the faculties of the University of  
3 Southern California, Georgia State University, the University of  
4 Colorado, and most recently at California State University in  
5 Bakersfield where I've been on the faculty for the past 17 years  
6 as Department Chairman.

7 My major work in graduate school dealt with the theory  
8 of markets and with economic growth and development. My academic  
9 career -- in my academic career I have taught in those areas the  
10 theory of markets, and economic growth and development. Much of  
11 my research, published research, has been in those areas.

12 I believe I recognize that in order for the State of  
13 California to maintain significant economic growth into the next  
14 century, it is a requirement that we have affordable and abundant  
15 energy for all citizens of the State of California. And my  
16 knowledge of economic growth theory, I think, is most helpful  
17 here.

18 In addition, with regard to deregulation and the  
19 changing environment, my theory -- my study of the theory of  
20 markets suggests that I understand monopoly markets, I understand  
21 competitive markets, the difference between the two, and the  
22 weaknesses and strengths of both of these markets.

23 I therefore think that I am well qualified to serve as  
24 the economist on the California Energy Commission.

25 SENATOR CRAVEN: Very good, Mr. Bilas. We appreciate  
26 that very much.

27

28





1           You recognize that Senators Mello and Ellis, to your  
2 left, are Members of the Rules Committee?

3           MR. BILAS: Yes, I do.

4           SENATOR CRAVEN: And Senator Rosenthal is here because  
5 of his intense interest in this particular area. And following  
6 asking my colleagues on the Rules Committee as to whether they  
7 have any questions at this time, we will then call on Senator  
8 Rosenthal.

9           Senator Mello, do you have any questions?

10          SENATOR MELLO: Just a brief question, and perhaps  
11 Senator Rosenthal would have some after Senator Ellis .

12          That is: The overall direction in which we are going  
13 with the Energy Commission to try and meet our energy needs here,  
14 I think that we set off a few years ago with trying to look at  
15 alternate sources of energy and give a priority to, by 1990,  
16 meeting our needs with, say, wind energy with 10 percent of the  
17 total, as well as use of solar, and geothermal, and biomass, and  
18 other types.

19          Where does that fit into your own philosophy or your own  
20 goals?

21          MR. BILAS: Senator, I believe that it is essential that  
22 we have as many alternative forms of energy for the State of  
23 California as possible. We are extremely vulnerable. California  
24 is not secure energy-wise.

25          We need to do things like fuel switching, but we need,  
26 as you cite, to develop all alternative forms.

27  
28



1           If we do not do this, and if there is a significant oil  
2 disruption in the Middle East, I think California is going to  
3 suffer a great deal.

4           We at the Energy Commission are well aware of this. We  
5 have cited in our recently adopted Fuels Report, over which I was  
6 the presiding member, the need to continue to diversify our  
7 energy base, the need to continue to look into alternative fuels,  
8 particularly, I might add, in the transportation sector where we  
9 are most vulnerable. We are 100 percent dependent in the  
10 transportation sector on petroleum, and we need to diversify  
11 there as rapidly as possible: methanol, ethanol, compressed  
12 natural gas, electric even are things we need to look at.

13           SENATOR MELLO: Yes, in order to maintain a high level  
14 of energy self sufficiency, do you believe it would be wise to go  
15 ahead and develop more offshore oil exploration along the coast  
16 of California?

17           MR. BILAS: I think offshore oil is something that  
18 should continue to be looked at, but quite frankly, Senator, I  
19 think we have sufficient resources on the mainland that we can  
20 spend our time looking here and developing these onshore  
21 resources, in particular the thermally-enhanced oil recovery  
22 fields in Kern County. We need to do a lot of work in those  
23 areas.

24           I personally would find it not very appealing if I were  
25 driving up and down the coast of California and saw nothing but  
26 oil wells. I wouldn't like that.

27

28



1           SENATOR MELLO: Are you talking about the heavy oils,  
2 perhaps, down in Kern County?

3           MR. BILAS: Kern County, yes, heavy crude. There are  
4 significant supplies of oil there. The difficulty, of course, as  
5 you well know is getting it out of the ground. We need to bring  
6 in, I think, more natural gas to create the steam to lighten up  
7 that oil. And we need to look at alternative ways of getting at  
8 that enhanced oil or that heavy oil.

9           There are merging technologies that I believe we need to  
10 look at as well.

11          SENATOR MELLO: Thank you very much.

12          SENATOR CRAVEN: Senator Ellis?

13          SENATOR ELLIS: Would you briefly outline your  
14 educational background for us?

15          MR. BILAS: Yes.

16          In 1956, I received a Bachelor of Arts Degree in  
17 Mathematics from Duke University, and in 1963, I received a Ph.D.  
18 in Economics from the University of Virginia.

19          SENATOR ELLIS: Have you taught at the university level?

20          MR. BILAS: I have been in academics ever since I left  
21 the University of Virginia. From 1962-1967, I was on the faculty  
22 of the University of Southern California, where I was promoted to  
23 the rank of Associate Professor after some four years. I took a  
24 Fullbright Grant, went to the Philippines for a year, returned to  
25 Georgia State University in 1967. Stayed at Georgia State  
26 University for some three years, and moved to Bakersfield in  
27 1980, where I am Department Chairman of the Economics Department.

28







1 And in 1976, became also E.C. Reed Professor of Economics at  
2 California State University.

3 Over the course of roughly 1965 through 1980, I was, on  
4 a number of summers, on the faculty of the University of  
5 Colorado.

6 SENATOR ELLIS: Thank you.

7 CHAIRMAN ROBERTI: Any further questions?

8 Senator Rosenthal.

9 SENATOR ROSENTHAL: Yes, Mr. Chairman and Members.

10 I appear today to indicate that in my opinion Mr. Bilas  
11 is competent, but I have some concerns and I would like to raise  
12 a few questions so that it'll be on the record as to where he  
13 stands on some of these issues that I'm interested in.

14 Picking up on Senator Mello's questions, I have serious  
15 concern about this growing political bias in favor of market  
16 solutions and utility deregulation as a substitute for government  
17 action to protect the rate base. In general, my observation is  
18 that deregulation has benefitted the large commercial and  
19 industrial customers at the expense of residential ratepayers.  
20 And I've seen that not only in utility deregulation, but in the  
21 telephone business, in the airplane business: if you're the  
22 large user, you benefit; but if you're the small user, you know,  
23 I always use the expression, "You can get to New York quickly,  
24 but you can't fly to Fresno."

25 And so, my belief is that before the Commission adopts  
26 new market approaches for managing our energy resources, it seems  
27 to me that the burden of proof should on the Commission to  
28



1 demonstrate that competition will not harm the captive  
2 residential and small business ratepayers, who have no place else  
3 to go.

4 The large ones, for example, in Southern California just  
5 recently in terms of gas were able to switch to oil or to some  
6 other source.

7 Would you like to comment on that?

8 MR. BILAS: There were a lot of questions, I think, that  
9 you've asked in that statement, Senator Rosenthal. I'll try the  
10 best that I can.

11 You can't get to Bakersfield, either, by the way. It's  
12 not just Fresno.

13 (Laughter.)

14 SENATOR PETRIS: Or Palm Springs.

15 MR. BILAS: Or Palm Springs, I think that's true as  
16 well.

17 I think we have to be very careful when we make  
18 statements that: Let's let the market do it. I think, first of  
19 all, we have to understand what it is that markets can and cannot  
20 do.

21 To the economist, if I may just digress for a moment and  
22 theorize -- it's difficult for me not to do this as an  
23 academician or a former academician -- we talk about an efficient  
24 allocation of resources that will come from -- through the free,  
25 competitive market.

26 Well, that's nice, and that's a textbook example, but  
27 there are many instances in which we do not have the free,  
28



1 competitive market. One of them is in the case where we have  
2 environmental concerns, where have what we call externalities.  
3 Another is the case of a market in which there is simply a  
4 natural monopoly, a market which cannot become competitive.

5 Now, before we plunge into saying, "The market's going  
6 to do it, and we're going to disappear from the scene as  
7 regulators," I think we have to see where it is, for example,  
8 that we might be able to begin to back off from regulation and  
9 see if the market can, in fact, allocate resources the way it is  
10 supposed to in that theoretical sense.

11 I think a case in point where this can at least be  
12 partially done is the non-core in the gas market. And we are  
13 beginning to make movements there. Both the CEC and the CPUC, I  
14 think, agree that we can start looking in that area.

15 I share your concerns with regard to the core ratepayer.  
16 But let's remember that if we look at the rules of the game,  
17 which are outside the jurisdiction of the CEC, in particular with  
18 the California Public Utilities Commission, the core ratepayer is  
19 in effect always going to get stuck so long as we continue to say  
20 that there is a fixed revenue requirement that must be received  
21 by the natural monopoly.

22 Until we begin to think of moving away from that, then I  
23 think it would be foolhardy to say, "Well, let's just let the  
24 market do it." That involves no thought whatsoever, and I think  
25 that we will have, at least in the short term, utter chaos, and  
26 we will have ratepayers who will be significantly impacted.

27  
28







1           One other comment I would like to make, Senator, is:  
2 it's not altogether clear in the recent situation in Southern  
3 California that the large industrial and commercial users were in  
4 fact able to fuel switch. We are going to be holding a hearing  
5 at the Energy Commission. I, as presiding member of the Fuels  
6 Committee, have called a hearing for February the 10th, for  
7 informational purposes only, to find out: what the problem was  
8 in Southern California; if indeed there was a problem; who was  
9 impacted; how much they were impacted; and we do want to find out  
10 whether all of these large, these 800 industrial customers, were  
11 able to fuel switch. I don't believe that all of them were, but  
12 we're going to find out.

13           SENATOR ROSENTHAL: As a follow up to that, and because  
14 we've been hearing in the Legislature for some period of time  
15 that there was an oversupply of electrical generation, I passed  
16 the law SB 1970 asking both the PUC and the Energy Commission to  
17 report back to the Legislature as in fact whether there was an  
18 oversupply and some other related concerns.

19           As you know, I expressed and I came before the two  
20 commissions who were meeting simultaneously here in Sacramento,  
21 and expressed my concern that the draft reports seemed to be  
22 preoccupied with the QFs.

23           For those of you that don't know what QFs are, those are  
24 the qualifying facility, like cogeneration, which because of  
25 national and State laws, if you produce energy, the utility is  
26 obligated to buy it at some price.



1 And so, the reports seemed to be preoccupied with that  
2 excess capacity of the QFs over payments because of some  
3 contracts that had been signed, while ignoring the utility  
4 operations and their overpayments.

5 More recently I received a PUC OIR 2 decision which  
6 found that certain utilities were insisting that the QFs abide  
7 and be restricted by the Energy Commission's Conservative Demand  
8 Forecast, while the utilities applied more liberal demand  
9 assumptions to their own projects. If the utility had a QF, they  
10 weren't requiring the same restrictions on their own QF as they  
11 were requiring on the competitive QFs.

12 What's your view on the long-term value of QF projects,  
13 first of all, and on whether the Energy Commission, the PUC, and  
14 the utilities are applying consistent economic assumptions to  
15 both of those QF kinds of projects?

16 MR. BILAS: As you are well aware, Senator Rosenthal,  
17 the report which you looked at is a draft report. It is by no  
18 means in my view in its final form.

19 We continue to refer to the problem as one of  
20 oversupply. I would like to think in economist terms: we have a  
21 problem of over price.

22 The State of California has the fourth highest electric  
23 utility rates in the country, and if you leave out the municipal  
24 utilities, we have the third highest utility rates in the  
25 country, electric utility rates in the country.

26 I don't think this bodes well for the future of the  
27 State of California. I think we need to look very carefully at a  
28 whole range of options over the future.





1 I think, admittedly, there were some mistakes made by  
2 the CEC in the past in some siting cases, and I think admittedly  
3 there were some mistakes made by the CPUC in the past.

4 One of the outcomes, I hope, of this series of hearings  
5 which we had and the report or reports which are forthcoming will  
6 be that we will be able to see the mistakes that we've made and  
7 be able, hopefully, not to make these in the future.

8 That is a very difficult problem. We followed the rules  
9 as laid down by PURPA. We tried to diversify the energy base,  
10 but we have the big guys and the little guys. And as I say, we  
11 have made mistakes.

12 I think we can work our way out of this. I don't  
13 believe we'll make the mistakes in the future, but I do want to  
14 emphasize we do need an abundant supply of energy if California  
15 is going to continue to grow into the 21st Century. We are now  
16 at roughly -- our grid is somewhere over 50,000 megawatts, and  
17 we're going to need to increase that, even though there is an  
18 oversupply at this time, probably close to about 2 percent per  
19 year, which means we're going to have to continue to look at QFs,  
20 we're going to have to continue to look at out of state power.

21 SENATOR ROSENTHAL: I believe that we both sincerely  
22 share a mutual concern regarding those adequate supplies.

23 I agree with the Energy Commission's Fuels Report that  
24 additional gas supplies will be necessary from the Rocky  
25 Mountains, or Canada, or from other kinds of places.

26 However, I think where I begin to disagree is whether or  
27 not we need another interstate pipeline in order to do that. In  
28





1 my discussions with utilities that are there, there appears to be  
2 an adequate supply that they can carry even to the oil fields out  
3 there. And I guess I'm not sure that market forces ought to  
4 determine whether or not there's another pipeline or not.

5 Do you have any comments on that?

6 MR. BILAS: Sure.

7 I think that we at the Energy Commission have an honest  
8 disagreement with our sister agency in San Francisco, the CPUC,  
9 and I think we have an honest disagreement with some of the large  
10 utilities.

11 We are not saying that another pipeline will be built.  
12 What we have been saying is that we believe that the market ought  
13 to determine whether or not one or more be built. That is, let  
14 the FERC issue a certificate, and then let's see whether these  
15 proponents of pipelines are willing to come up with the necessary  
16 capital and, indeed, build a pipeline.

17 We will find -- we think that in the future, by the year  
18 1995-96, or thereabouts, that there will be a need for additional  
19 natural gas. And as I say, I think this is an honest  
20 disagreement, Senator.

21 We will find out more, I think, when we look into this  
22 recent situation in Southern California.

23 But we are not saying that we want it to be built.  
24 We're willing to let the forces of demand and supply, and the  
25 judgements of private investors, make that determination.

26 SENATOR ROSENTHAL: It's my understanding -- I have two  
27 brief questions, so I won't take up too much more time.  
28



1 CHAIRMAN ROBERTI: That's all right.

2 SENATOR ROSENTHAL: It's my understanding that you'll be  
3 involved in revising the State's Energy Contingency Plan, which  
4 currently depends upon State intervention to help those suffering  
5 from the energy crisis, those at the lower end of the economic  
6 scale.

7 To what degree are you willing to revise that  
8 Contingency Plan to rely on market forces to solve the problems  
9 of the energy crisis?

10 MR. BILAS: We will test the existing Contingency Plan  
11 at the end of March. We're going to have a two-day simulation.  
12 That is the existing plan.

13 I cannot sit here at this moment at tell you what we  
14 will do until after we test the plan.

15 I think your question, though, about those people at the  
16 low end of the continuum is a legitimate concern. If there were,  
17 let's say, an oil disruption, and the price of petroleum products  
18 spiked, I don't think there's any question but that some kind of  
19 relief is going to have to be given to those people at the low  
20 end of the continuum to at least be able to get them to work, for  
21 example, and get them to be able to buy groceries.

22 But we have other concerns with regard to that, and that  
23 is we do have to have some system of priorities so that if there  
24 is some kind of a cutoff, we know how to cut off and who not to  
25 cut off.

26 I think to say, "Let the market do it," is quite naive.  
27 My response to that -- if someone were to say to me, if I were in  
28



1 your position and someone were to say to me, "Given there's an  
2 emergency, what's the Contingency Plan going to look like?" And  
3 if my response were to be, or the response were to be, "We're  
4 going to let the market do it," I think I would respond to that  
5 by saying, "But what is the market going to do?"

6 And until we investigate what it is that the market is  
7 likely to do, I think to say, "We'll let the market do it," is  
8 utter folly.

9 SENATOR ROSENTHAL: Finally, you, I guess, issued a  
10 statement to the media that California needs to create its own  
11 strategic petroleum reserve to guard against the disruption and  
12 the flow of imported oil.

13 Can you expand upon that a little bit?

14 MR. BILAS: There are several statements floating around  
15 the media. I was interviewed by a gentleman from Reuters several  
16 weeks ago, and I wondered when his newspaper column was going to  
17 come out.

18 One of the recommendations in the recently adopted Fuels  
19 Report is that the California Energy Commission investigate the  
20 possibility of a West Coast strategic petroleum reserve. But we  
21 went on to say that we were not just thinking in terms of a  
22 physical reserve, but rather physical could be thought of as  
23 where could we store oil. But we're also thinking in terms of,  
24 perhaps, some kind of fiscal mechanism that might trigger  
25 something into effect in the event of some kind of a significant  
26 cutoff.







1           Where we're going to go with that recommendation I  
2 really don't know. I think it's going to take us a year, perhaps  
3 even more, to examine all of the possibilities.

4           But we do recognize at the Commission, Senator, that the  
5 State of California is vulnerable to an oil cutoff. Though we  
6 only import eight percent of our oil requirements today, and that  
7 for all practical purposes comes from Indonesia, we will be very  
8 susceptible to a cutoff if there will be a price spike. And if  
9 there's a price spike, we are going to be hurt just as much as  
10 anyone else because the oil is going to be bid away from the  
11 State of California.

12           So, we need to think in good times about the potential  
13 bad times, and that's what we're doing -- that's what I hope  
14 we're doing at the Energy Commission.

15           SENATOR ROSENTHAL: Thank you very much, Senators. I  
16 have no further questions.

17           I think this is a competent appointee.

18           CHAIRMAN ROBERTI: Senator Petris.

19           SENATOR PETRIS: When you were appointed, did you fill  
20 out a questionnaire that goes to the Governor?

21           MR. BILAS: I believe I filled out a number of forms  
22 sometime ago, Senator.

23           SENATOR PETRIS: Does that include your views?

24           MR. BILAS: I don't recall that it does. I don't think  
25 it does.

26           SENATOR PETRIS: You know, this statement about, "Let  
27 the market take care of it," your statement relating to that is  
28 sheer heresy. You know that.



(Laughter.)

SENATOR PETRIS: Both Washington and the Governor's Office downstairs.

But I applaud you for it. I think we ought to retain the flexibility --

MR. BILAS: Well, I have a strong belief in the workings of the free market. But I think if the free market were to prevail in all instances, we would have a lot of serious social problems, a lot of serious political problems, and a lot of serious economic problems. And I think we do have to balance off a few things on occasion.

I have tried to do that, and I will continue to try to do that, heresy or otherwise.

SENATOR PETRIS: Good for you; I applaud it.

Just two other questions very briefly.

The high ranking of our state in cost to the consumer for energy, it's third or fourth, depending on which number you use.

It seems to me that 15 or 20 years ago, we were among the lowest in the country. Ours was used as a yardstick or model for providing utilities.

Do you know why ours has changed in relation to other states?

MR. BILAS: At this point, Senator, I think I can only speculate. I have, frankly, not studied that problem.

I don't like where we are in the rank order. We're much too high.



1           One of the things that we have done is that we have  
2 diversified. We have significantly diversified our energy  
3 resources. One of the prices that you honestly and truly must  
4 pay for the diversification is that perhaps in the short-term,  
5 you may have to pay a higher price.

6           I hope that in the long-term that will not be the case.  
7 It is a problem that we are looking at at the Commission.

8           SENATOR PETRIS: How short has the term been so far?

9           MR. BILAS: Well, it's probably been 10 or 15 years, as  
10 you've said, and that's too long.

11          SENATOR PETRIS: The last question is on the reserve  
12 situation.

13          Natural Gas Southern Cal. did not keep up its winter  
14 storage that was required, and consumers had to pay more later.

15          Is there any sanction provided in the law that the  
16 Commission can use or the PUC can use?

17          MR. BILAS: To my knowledge, the Energy Commission  
18 cannot, but I believe on an at least an annual basis, I'm not  
19 sure of the basis, the CPUC has what they call a Reasonableness  
20 Review. And I believe that they will be looking at this problem  
21 from a different perspective, perhaps, than the Energy Commission  
22 will, but I think both commissions will be looking at this  
23 problem.

24          SENATOR PETRIS: Thanks.

25          MR. BILAS: We certainly will be at the Energy  
26 Commission beginning on February 10th.

27          CHAIRMAN ROBERTI: Any further questions?  
28







1 Any opposition in the audience?

2 Do I hear a motion?

3 SENATOR CRAVEN: So move.

4 CHAIRMAN ROBERTI: Senator Craven moves Mr. Bilas'  
5 nomination as a Member of the Energy Resources, Conservation and  
6 Development Commission be recommended to the Floor.

7 Secretary will call the roll.

8 SECRETARY WEBB: Senator Ellis.

9 SENATOR ELLIS: Aye.

10 SECRETARY WEBB: Senator Mello.

11 SENATOR MELLO: Aye.

12 SECRETARY WEBB: Senator Petris.

13 SENATOR PETRIS: Aye.

14 SECRETARY WEBB: Senator Craven.

15 SENATOR CRAVEN: Aye.

16 SECRETARY WEBB: Senator Roberti.

17 CHAIRMAN ROBERTI: Aye.

18 The vote is five to nothing.

19 Thank you very much, Mr. Bilas.

20 MR. BILAS: Thank you very much, Senators.

21 CHAIRMAN ROBERTI: Thank you, Senator Rosenthal, as  
22 well.

23 We will return now to reference of bills.

24 (Thereupon the Committee acted upon

25 legislative agenda items.)

26 CHAIRMAN ROBERTI: We will now return to Governor's  
27 Appointees, Welby A. Cramer, Member of the Youthful Offender  
28 Parole Board.



1 We'll ask you what we ask all the Governor's Appointees,  
2 and that is: Why do you feel you're qualified to assume this  
3 position?

4 MR. CRAMER: Thank you, Senator.

5 CHAIRMAN ROBERTI: I'm turning the gavel over to Senator  
6 Craven for a few moments. I have somebody outside.

7 MR. CRAMER: All right.

8 My career encompasses 32 years of law enforcement. I  
9 was appointed by the Governor to the Youthful Offender Parole  
10 Board in March of 1983 and have served on the Board since that  
11 time. I was Chairman of the Board from approximately June of  
12 1984 until my reappointment as a Member in March of last year.

13 As Chairman and as a Member of the Board, I have been  
14 working closely with the Youth Authority in assisting in the  
15 administration of the process of dealing with youthful offenders  
16 that have been sent to the Youth Authority by the local courts,  
17 and have been effective, I believe, in that role or in those  
18 roles.

19 I believe that my career in law enforcement and my  
20 career on the Board has qualified me to continue to serve on the  
21 Board.

22 I might also add that my wife and I have been married  
23 for about 36 years and have spent 35 of those years raising  
24 children. So, we know something about kids, and what motivates  
25 kids, and how you deal with kids who are in trouble, and how you  
26 try to work with them to get them out of their problems.

27

28



1 But that, in very brief summary, is my background and  
2 the reason I feel I'm qualified to continue serving as a Member  
3 of the Board.

4 SENATOR CRAVEN: Senator Petris, do you have any  
5 questions? Senator Mello. Senator Ellis.

6 SENATOR ELLIS: Move confirmation.

7 SENATOR CRAVEN: Senator Ellis moves confirmation to the  
8 Floor.

9 Call the roll, please.

10 SECRETARY WEBB: Senator Ellis.

11 SENATOR ELLIS: Aye.

12 SECRETARY WEBB: Senator Mello.

13 SENATOR MELLO: Aye.

14 SECRETARY WEBB: Senator Petris.

15 SENATOR PETRIS: Aye.

16 SECRETARY WEBB: Senator Craven.

17 SENATOR CRAVEN: Aye.

18 SECRETARY WEBB: Senator Roberti.

19 SENATOR CRAVEN: The vote is four-zero.

20 Congratulations and thank you, sir.

21 MR. CRAMER: Thank you very much.

22 SENATOR CRAVEN: Next is Benjamin G. Davidian, Chairman  
23 of the Agricultural Labor Relations Board.

24 If you will, Mr. Davidian, state why you feel that you  
25 are qualified for this very important position.

26 MR. DAVIDIAN: Thank you, Senator.

27 My name is Ben Davidian.  
28





1 I have had the opportunity to speak to each of the  
2 Senators here, or to a member of their staffs, and I probably  
3 bored them somewhat with the qualifications and so forth, so I'll  
4 kind of keep that short, unless there's specific questions that  
5 you may have.

6 The only point I would say at this point is that when I  
7 was asked to take this job, I was told that my job was to enforce  
8 the Agricultural Labor Relations Act. I agreed to do that. I  
9 swore I would do that. I have done that, and I intend to  
10 continue doing that if I'm confirmed.

11 I think I'm qualified for the job. I've been a trial  
12 attorney practicing with the Sacramento law firm of Wilke,  
13 Fleury, Hoffelt, Gould and Birney, where I was a partner.

14 I think my background, having been born and raised in  
15 California and being familiar with the agricultural community in  
16 that respect helps to qualify me.

17 I do not have an agricultural background in the sense of  
18 I've never been a grower, nor have I had close connections with  
19 that industry, but I've had the firsthand experience of seeing  
20 the protests and the violence in the fields, and the wildcat  
21 strikes and so forth, that happened in the '50s, '60s, and '70s  
22 prior to this Act.

23 I do not have a background in labor law, but I was a  
24 trial lawyer and I'm familiar with the rules of evidence and the  
25 other rules with which we -- the rule of stare decisis, et cetera  
26 -- that we deal with at the Board. And I believe I can fairly  
27 administer this Act with that experience.



1 I do not bring into this job preconceived notions  
2 leaning one way or the other in the labor field or in  
3 agriculture, and for that reason I think I'm particularly  
4 qualified for the position.

5 I'd welcome any questions.

6 CHAIRMAN ROBERTI: Very well, we'll begin with Senator  
7 Mello.

8 SENATOR MELLO: Just a couple.

9 Mr. Davidian has been down in my district, getting out  
10 and meeting with workers and growers and everyone. Seeing  
11 firsthand what some of the problems are is certainly of help.

12 One of the questions I wanted to ask you is, there seems  
13 to be a new move on by especially the grower groups to conform  
14 California's ALRB to the national Act. I don't know whether they  
15 want to repeal the State ALRB and adopt just a consistent  
16 conformity with the federal Act.

17 What is your position on that?

18 MR. DAVIDIAN: I guess that goes back to my basic  
19 philosophy of judges -- and although I'm not a judge per se, the  
20 nature of this quasi-judicial panel sort of makes us judges --  
21 Senator, I'm not trying to dodge the question when I say that I  
22 view my role there as taking the law that's given to me by the  
23 Legislature and interpreting that law.

24 I've really had no input into the creation of the law in  
25 the first place, nor do I expect that I will go out and campaign  
26 for the alteration of the law by anybody, whether it be growers,  
27 or unions, or the Legislature. If I was asked to testify on it,  
28



1 I might say how I expect it to work if it were proposed to me,  
2 but I haven't even read that conformity statute that has recently  
3 been proposed, and it would be very difficult for me to comment  
4 on that.

5 SENATOR MELLO: Let me ask you in the same way, if we  
6 were to adopt the NLRB law in California, as the Governor has  
7 done with Cal-OSHA -- he's suspended, subject to a court hearing,  
8 Cal-OSHA and allowed the federal government to come in and take  
9 care of our Occupational Safety and Health Act -- I imagine this  
10 would be the same thing. We would collapse our own ALRB or ALRA,  
11 the Act in California, and then we would delegate the authority  
12 to the National Labor Relations Board to come in and service the  
13 law under the national Act.

14 MR. DAVIDIAN: You wouldn't be able to do that, Senator,  
15 in one sense, and that is that the NLRB specifically excludes  
16 agricultural employees. I don't think they'd extend jurisdiction  
17 to those types of cases.

18 That was why the ALRA came along in the first place, as  
19 I understand it. I don't think they would -- I don't think it's  
20 a situation where you could hand it to the National Board and  
21 say, "Okay, now you take care of this." They'd say, "We don't  
22 have jurisdiction in that area."

23 So essentially if you --

24 SENATOR MELLO: I think that is the motive behind the  
25 grower groups that want to conform, is to exempt agriculture from  
26 any Board. They would eliminate the State, and then they would  
27 be exempt from the federal.  
28







1 MR. DAVIDIAN: I don't know. Again, I haven't really  
2 read the act. I don't know anything about it, the conformity  
3 act, and so I really couldn't say.

4 SENATOR MELLO: Do you know the difference between the  
5 ALRA in California and the National Labor Relations Act? Outside  
6 of the exempting of agriculture, what are the other differences?

7 MR. DAVIDIAN: There are a number of differences, six,  
8 seven, eight of them that are major.

9 I think the most -- the ones most often commented upon  
10 are in reference to the make whole provision that is nonexistent  
11 for bargaining cases in the NLRA but which is present in the  
12 ALRA. And that provides for the awarding of make whole in a  
13 technical refusal to bargain, or refusal -- outright refusal to  
14 bargain, or a case of surface bargaining. That provision is not  
15 present in the NLRA, as I understand it.

16 Another major difference between the ALRA and the NLRA  
17 is in the area of elections. Our procedures here are much  
18 different than they are in the NRLA simply because of the  
19 difference in the type of work, I should think. You must hold an  
20 election much faster in the State of California under the ALRA  
21 than you do under the NLRB [sic]. I think it's a 30-day or  
22 60-day rule with the NLRA, whereas it's a 7-day rule, I believe,  
23 with the ALRA. It's even shorter than that if you have a strike  
24 situation.

25 You also have a peak requirement here that you don't  
26 have in the NLRA. Other questions are good standing questions  
27 that are different under our Act than the NLRA. And I think  
28 there are a number of others that may occur to me as we go along.



1           SENATOR MELLO: Would you support doing away with the  
2 ALRA in California?

3           MR. DAVIDIAN: No, sir, I would not.

4           SENATOR MELLO: You feel there's a definite need for it?

5           MR. DAVIDIAN: I think so. Again, I grew up in the --  
6 in Fresno and in Tracy. I remember what things were like. I  
7 remember, as I have said, when this Act was first passed, I was  
8 still in Southeast Asia in a blue uniform, and I kind of felt I  
9 was safer over there than some of the guys were back here at the  
10 time with all of the violence that was occurring and the  
11 disruption in the fields.

12           I don't think getting rid of the ALRA is an answer to  
13 anything other than an invitation to return to those days. I  
14 think we're beyond that. I hope we're beyond that, and I'd like  
15 to see this Board mature. I'd like to see it come along, just as  
16 the NLRB did in 1935, or thereabouts, when the NLRB was first  
17 created; there was a great deal of opposition to it. As time  
18 went on, in 15-20 years down the road, it come of age, and it  
19 became more and more accepted, and today it's a completely  
20 accepted institution.

21           I think that same thing can happen with the ALRB if it's  
22 allowed to do its job, if it is not defunded or severely cut in  
23 its funding any more than it already has been, having received  
24 budget cuts of about 56 percent in the last five years. It's  
25 hard to deal -- keep an agency operating under those kinds of  
26 constraints, but we've done it, and we want to continue.

27  
28





1 I don't think doing away with the ALRB would be an  
2 answer to anything at this point. Just an invitation to trouble.

3 SENATOR MELLO: Have you talked to the administration  
4 about trying to back field some of those many jobs that they've  
5 done away with in the ALRB, with this administration here in  
6 Sacramento?

7 MR. DAVIDIAN: Regarding budget cuts?

8 SENATOR MELLO: Yes.

9 MR. DAVIDIAN: The administration was involved in budget  
10 cuts in the first two years, as I understand it. The last three  
11 budget cuts have come from the Legislature, it's my  
12 understanding.

13 SENATOR MELLO: My question is, have you gone to the  
14 administration trying to request that they add to the budget?  
15 Because the Governor has the prerogative, as you know, to put his  
16 budget forth, and then the Legislature hears the budget and  
17 either adds to it or subtracts from it.

18 Are you asking him for additional money?

19 MR. DAVIDIAN: We did this year. We asked for two  
20 additional positions that's in the budget now. We've asked for  
21 an additional attorney for the Board side, and Mr. Stirling has  
22 asked for an additional attorney for the General Counsel's side.

23 Frankly, we'd like to ask for more, but we're trying to  
24 be as realistic as possible in this. It didn't seem to us that  
25 the political climate was such that it would be looked upon  
26 favorably at this time, so we kept our requests very low.





1           Originally, we were going to ask for three apiece, and  
2 we decided --

3           SENATOR MELLO: Let me ask you this: The two positions  
4 that you've asked for, how does that compare with the number of  
5 positions which were cut with the 56 percent reduction? How many  
6 positions were lost by cuts in the past?

7           MR. DAVIDIAN: Oh, I can only tell you from my side. Of  
8 course I wasn't there, but from my understanding, the Board's  
9 side in just -- just in talking about attorneys, my understanding  
10 is the Executive Secretary's office used to have nine or ten or  
11 even more attorneys. They now, that area of the office, was  
12 reduced to two after the last budget cut.

13           The Litigation Unit, formerly known as the Solicitor's  
14 Office, had as many as ten or eleven, or possibly more,  
15 attorneys, and in the last budget cut that was reduced to  
16 approximately four.

17           And the Board Members each had two attorneys apiece;  
18 they now have one apiece. I'd say that the attorneys on the  
19 Board side are probably less than a third of what they were at  
20 its height. I don't have the exact numbers.

21           SENATOR MELLO: There's been dozens of positions cut,  
22 and we're getting back two.

23           I guess the real question is, what is the workload or  
24 the backlog, especially in the make whole categories? How far  
25 behind are we? Do we need more staff to catch up, or are we just  
26 going to hold the status quo?

27

28



1 MR. DAVIDIAN: Well, if we were to take -- there are two  
2 aspects to that. There's the liability cases and then there are  
3 the compliance cases. We have a bifurcated system under the  
4 statute which provides that when a complaint is issued and a  
5 hearing is held, a decision is rendered on the question of  
6 liability only. That case is then appealed to the Board, and  
7 then possibly on to the Court of Appeals or to the Supreme Court,  
8 however far they can go. And then, once that is done, it comes  
9 back to us for another ALJ hearing on the issue of compliance.  
10 Of course, they have to have a specification drawn up by the  
11 General Counsel first. It's a very laborious process, especially  
12 given his budget cuts.

13 Two years ago, he was cut by 25 percent, so he's lost a  
14 lot of his field people. And although I'm not intimately  
15 familiar with all his day-to-day operations over there, we do  
16 oversee compliance.

17 We now have a caseload of compliance cases of  
18 approximately 50 or 60 cases that are currently having  
19 specifications drawn up. About another 40 cases that are  
20 awaiting hearing, I believe, and --

21 SENATOR MELLO: What are the ages of those cases? Are  
22 they one year, two years old?

23 MR. DAVIDIAN: They go all the way back. I think some  
24 of those are several years old, because you see, those have gone  
25 up to the Court of Appeals and back. In some cases, they've gone  
26 up twice, and so there's sometimes a two or three year delay in  
27 that process. Some of those cases could easily be eight or nine  
28 years old, possibly more.





1           SENATOR MELLO: I was made aware of a case in Monterey  
2 County recently where there was a make whole case pending for  
3 twelve years, which seems an awful long time. And in settling  
4 this case, I guess the grower has to pay an award, which is  
5 usually the case. That has to go back to the workers who were  
6 employed at that time frame, and the money has to be matched up  
7 with each individual worker. And in these twelve years, they can  
8 hardly seem to locate them, let alone find them if they're still  
9 alive, where are they, and so forth.

10           Doesn't that really complicate the process, rather than  
11 just expediting the process so that both the growers and the  
12 workers are able to get a satisfactory adjudication and get  
13 whatever settlement is made?

14           MR. DAVIDIAN: We'd love to be able to do that. Of  
15 course, when you get into a compliance situation with the ALRA,  
16 it's much more complicated generally speaking than with the NLRA.

17           In the National Labor Relations field, what you often  
18 see happen is, a fellow may get fired from the ABC Tire and  
19 Rubber Company, and he's been working there for six or eight  
20 years at an hourly rate. Then he goes across the street to the  
21 XYZ Tire and Rubber Company and works for roughly the same rate  
22 for the next six years while his case is going up. The NLRA is  
23 now working on cases from 1980. They just finished their '79  
24 cases, so they have the same kind of a situation we have.

25           But it's easy for them to figure out what his damages  
26 were because he was fired six years ago from that place at a  
27 certain rate, and he has been working at another rate at the  
28 other place, and they can figure out what his damages are.





1 In our situation, we don't have that at all. In  
2 agriculture, as I'm sure you're aware given your area that you  
3 represent over there, some of the workers will come in. If a  
4 worker is discharged unfairly, and a charge is brought, and it  
5 takes four or five years for that case to finally be finalized  
6 and they figure out the specifications, the General Counsel's  
7 office has to go back and figure out where that individual has  
8 been, where they have worked, what kind of money they made,  
9 because there is a setoff for the amount of money that they made  
10 in that time against the damages that they may receive.

11 Well, an agricultural workers doesn't stay in one spot,  
12 generally speaking, like you do with the XYZ Tire and Rubber  
13 Company. These people may travel to half a dozen or more  
14 employers in the course of a season. And in fact, if they're  
15 year-round employees, may actually travel down to the Imperial  
16 Valley, or down into Arizona, and may work any number of  
17 employers year-round.

18 With that kind of a situation, they have to go back and  
19 check with each one of those employers and determine what they  
20 were paid, whether it was piece rate, an hourly rate, whether  
21 they were paid by the bin or by the box, and then a calculation  
22 has to be made somehow to allocate for that income. It is a  
23 very, very time-consuming, laborious process.

24 I hope -- one of our big goals on the Board side was to  
25 get rid of the backlog of cases we had. We have succeeded in  
26 doing that, and hopefully this next year, if I don't lose more  
27 attorneys, I'd like to loan a couple of attorneys to Mr. Stirling  
28



1 so that they can help him with the compliance so we could work on  
2 that.

3 With the caseload of compliances cases that we have  
4 right now that will require decisions, if we don't get a single  
5 ULP case come into this Board in the next three years, I believe  
6 it would take us about three years to get all of those compliance  
7 cases done at a rate of 30-35 cases per year, which is what we've  
8 been doing for the last two years.

9 SENATOR MELLO: Are we losing ground on the cases, or  
10 are we gaining on the backlog or are we losing?

11 MR. DAVIDIAN: We're gaining on the backlog of cases  
12 before the Board. We had a number of old cases that were -- ten,  
13 twelve cases, something like that. All but three of those, I  
14 believe, are now finished. And by the time my first year is  
15 complete, all of them will be done, which is one thing I wanted  
16 to do. I wanted to get rid of all of those old cases. Some of  
17 those were very difficult cases.

18 One of them we just did involved over 700 employees,  
19 each of which, you know, has an individual case when you go to  
20 resolving the damages. Those are almost done, but of course we  
21 have the compliance matters that we have to deal with.

22 I think we're about holding our own in compliance. We  
23 hope to start whittling that down this next year if we don't have  
24 further budget cuts.

25 SENATOR MELLO: Okay, thank you.

26 CHAIRMAN ROBERTI: Any further questions? Senator  
27 Petris.  
28





1           SENATOR PETRIS: Along those same lines, when you look  
2 at the enormous budget cuts, and particularly at the lawyer  
3 level, and the decline in the number of filings and so on so  
4 forth, other than cleaning up existing cases, what justification  
5 is there to continue the agency?

6           I know you've commented on it briefly before.

7           MR. DAVIDIAN: I think if -- for just purposes of  
8 argument, and let's just assume that not a single ULP case is  
9 filed nor a single election is filed in the next or so. Even if  
10 that were the case, I think that this agency serves a very vital  
11 function in agriculture in the State of California, and that is  
12 as a watch dog.

13           I think one of the reasons that you may see a reduction  
14 in the number of charges being brought over the years, and it  
15 really started back in '82 or so, '81-'82, and the number of  
16 elections that have started to decrease, I think quite probably  
17 what's happening is that growers and workers alike are learning  
18 what is required of them under this Act and are starting to  
19 follow this Act. And as long as the ALRB is there as the watch  
20 dog, they're going to comply with it.

21           You kill the watch dog, and then you're -- it's an  
22 invitation to the previous troubles.

23           SENATOR PETRIS: The labor people have a different  
24 interpretation. They say they've just stopped filing because the  
25 style of the General Counsel is such that everything always goes  
26 against them. Setting cases on make whole, for example, and  
27 others where it's determined by the Union based on the  
28





1 information that they have from the employees that there's a  
2 large amount of money due, they're settled out. A lot of them  
3 have been settled out by General Counsel without going forward  
4 because the statute doesn't require it.

5 MR. DAVIDIAN: If it's before a hearing date.

6 SENATOR PETRIS: Well, I don't know whether --

7 MR. DAVIDIAN: Someone has to come to the Board if  
8 settlement occurs after evidence is first taken in a hearing.

9 If it's settled before a hearing --

10 SENATOR PETRIS: It has to be approved by the Board?

11 MR. DAVIDIAN: It has to be approved by the Board.

12 SENATOR PETRIS: It's not really a settlement. It's  
13 just an order by the attorney who has authority under the statute  
14 to act on behalf of the worker. And if the worker has a claim  
15 for \$100, and he wants to settle it out for \$7, the worker  
16 doesn't have any voice in it. He just settles them out.

17 When that happens a few times, it discourages other  
18 workers from even trying.

19 The make whole has been an area of controversy for  
20 sometime now, and it's also the longest delaying period, I guess.

21 On the make whole, the Del Porto case, which in that  
22 case, as I understand it, the Appellate Court ruled that the  
23 Board should go back and find out what would have happened if  
24 they had bargained in good faith, and something or other. I'm  
25 not sure of the details. And the Board ordered the review of a  
26 whole lot of other cases, some of which had been determined and  
27 were in compliance, you know, actually in compliance. And all of  
28



1 those cases, apparently, have been reopened or are going to be  
2 reopened.

3 Now, in light of the enormous amount of time that it  
4 took to get to that stage, how can that be justified?

5 I haven't read the decision, but I understand it's not  
6 required by that decision to go back over cases that have been  
7 completed, and some of which are actually in compliance.

8 Can you tell me why the Board wanted to open up those  
9 cases again?

10 MR. DAVIDIAN: Senator, the case of William Del Porto  
11 Versus ALRB is a Third District Court of Appeals case from here  
12 in Sacramento.

13 In that case, the Judge ruled that the ALRB has been  
14 violating the law since 1976 in its case of Adam Dairy in holding  
15 that --

16 SENATOR PETRIS: On the make whole part of it?

17 MR. DAVIDIAN: On the issue of whether or not make  
18 whole's required, given make whole's awarded if the conclusion is  
19 drawn that an agreement would have been reached had the employer  
20 engaged in proper bargaining. Then the make whole would be --  
21 it's a subjective test, but that's where make whole would come  
22 in.

23 The Board had been using since 1976 a -- essentially a  
24 standard by which there is an irrebuttable presumption that once  
25 they have held the employer was negotiating in bad faith, that  
26 there is an irrebuttable presumption that there would have been  
27 an agreement reached.  
28



1           The Court in Del Porto said, "You can't do that. You've  
2 been wrong in doing that from 1976. There is, perhaps, a  
3 rebuttable presumption, but you cannot take away the employer's  
4 right to rebut that."

5           Well, as a practical matter, and as I wrote in the  
6 decision, I added language that said it will be a very difficult  
7 job for a grower to rebut that presumption, because once they are  
8 found to be in bad faith, then they're going to have to  
9 essentially plead to us that, "Yeah, I know I was in bad faith,  
10 but even so, there may have been -- there wouldn't have been an  
11 agreement anyway even if I was in good faith."

12           That's going to be a hard thing to prove. But Court  
13 said you've got to give them the right in Del Porto to do that.

14           It became clear to me at that point, and to the majority  
15 of the Board, that it was also likely to be the argument for most  
16 of the other cases that had been found that same way. And there  
17 were approximately 20 of those where that same conclusion had  
18 been drawn, that those cases would be appealed on that issue were  
19 they not given the opportunity to address that point to the  
20 Board.

21           It was our view that by giving them the opportunity to  
22 address that point at this point, that's a better way of dealing  
23 with it than having these cases trickle in over the next three or  
24 four years, two years, whatever it may take as they come back  
25 down. Because in my view, the Supreme Court -- which refused  
26 review in the Del Porto case, which gave tacit approval of that  
27 holding -- would have ultimately resulted in a number of these  
28







1 cases coming back to us at some point in time. Better to do it  
2 now, let them present their case to us now, and then move on in  
3 the process than to have that come back.

4 SENATOR PETRIS: Suppose neither side wants to go back  
5 into it?

6 MR. DAVIDIAN: They don't have to.

7 SENATOR PETRIS: It's not mandatory?

8 MR. DAVIDIAN: They have to move for it.

9 SENATOR PETRIS: The impression I had was that it was an  
10 order to reopen it.

11 MR. DAVIDIAN: No, no. The order was an invitation if  
12 they wanted to, and some have not. Some have and some have not.

13 SENATOR PETRIS: I would assume that those that are  
14 already in compliance probably wouldn't want to go back over it  
15 again.

16 MR. DAVIDIAN: It depends on what they're looking at. I  
17 mean, if they're looking at, you know, if they're looking at \$1  
18 million in make whole outstanding against them, and they think  
19 they have a shot at putting some evidence forward -- I don't know  
20 what evidence they could put forward -- but if they have a shot  
21 at it, they might do it.

22 On the other hand, if they're looking at a maximum make  
23 whole award of \$500 or \$1,000, if that's possible, then I think  
24 it's likely that they wouldn't want to spend that kind of time  
25 and attorneys' fees that would go with bringing it back.

26 SENATOR PETRIS: What form does that take, that  
27 invitation? Is that just a notice from the Board to the people  
28



1 involved in this case that because of this decision, you may  
2 reopen this if you wish?

3 MR. DAVIDIAN: By a certain time.

4 SENATOR PETRIS: Within a certain period of time?

5 MR. DAVIDIAN: By, I think, the deadline is February  
6 15th. We didn't want these things trickling in --

7 SENATOR PETRIS: Do you have a high proportion taking  
8 advantage of that?

9 MR. DAVIDIAN: Gosh, I don't know. I'm sorry.

10 It seems to me that I've heard of eight or ten, maybe a  
11 dozen, but if there are more I simply wouldn't -- I wouldn't  
12 necessarily know about that because that's a process that, you  
13 know, they've still got another couple of weeks to go.

14 SENATOR PETRIS: The total number was about 20, you  
15 said.

16 MR. DAVIDIAN: It seems to me, if you don't include the  
17 technical refusal to bargain cases, and that's an issue that's  
18 before the Court of Appeals.

19 SENATOR PETRIS: What about the concept, the whole  
20 concept of make whole?

21 Would you say as a member of this past year that that's  
22 a provision that's been working? Should it be removed from the  
23 statute? Should it be amended to make it more fair, more  
24 effective?

25 MR. DAVIDIAN: My view is that, as I answered the  
26 question posed by Senator Mello, I am -- I'm not a judicial  
27 activist at all. I have long -- as a trial lawyer, I have felt  
28



1 that there was a very distinct difference between a judge and a  
2 Legislator, and I never liked it when judges got involved in  
3 legislating.

4 I take the statute, and I am a strict constructionist on  
5 the statute. The statute clearly provides for make whole in  
6 appropriate cases with a subjective test, and an appropriate  
7 remedy for refusal to bargain cases or surface bargaining cases.  
8 If the facts and circumstances present themselves that would be  
9 appropriate for make whole, then I will have no hesitation in  
10 awarding make whole.

11 As for how the statute -- if the statute should be  
12 amended, I'd have to demur to that because I'll take the statute  
13 as the Legislature gives it to me with the legislative intent as  
14 I understand it and go with that, and leave that to the  
15 Legislature.

16 SENATOR PETRIS: I understand that, and I think that's  
17 commendable.

18 If this were ten years later, and you've been on that  
19 Board for ten years, and you see a pattern of consistent  
20 injustice, time after time after time, either against the  
21 employer or against the employee, because of a device in the law  
22 or the way it's drafted, would you give us the benefit of your  
23 observation and say, "Look, I've been sitting on this thing for  
24 ten years, and I've got to tell you this section over here isn't  
25 a workable section, and it results in injustice every time it's  
26 applied."





1 Or are you going to sit on Mount Olympus and pretend  
2 that there's no world there down below you, and all you have is a  
3 paragraph to read and apply what facts come before you? Do you  
4 see what I mean? You're part of the world.

5 MR. DAVIDIAN: Yes.

6 SENATOR PETRIS: Now, you don't have to answer that with  
7 respect to make whole, but just as a general concept.

8 Do you still feel that you should never make any comment  
9 toward helping us improve the statute if, you know, the evidence  
10 clearly -- not evidence in the legal sense, but experience  
11 clearly cries out for it?

12 MR. DAVIDIAN: I can imagine that there would be a  
13 circumstance, Senator, you know, in an appropriate situation that  
14 if the Senate or the Assembly wished to have us give a  
15 professional opinion from our experience on how something is  
16 working, whether it's working correctly or not, I can imagine  
17 that that circumstance may arise.

18 Certainly if I were on the Board for ten years -- God, I  
19 can't imagine that.

20 (Laughter.)

21 CHAIRMAN ROBERTI: You never know.

22 SENATOR PETRIS: Thanks.

23 CHAIRMAN ROBERTI: Further questions?

24 Is there opposition in the audience?

25 MR. VEGA: My name is Eric Vega. I'm with the Mexican  
26 American Legal Defense and Educational Fund. I'm a staff analyst  
27 with them.  
28



1 I think the general impression amongst -- in many  
2 sectors of the Hispanic community throughout California is that  
3 the fox is guarding the chicken coop, so to speak, in regards to  
4 the Agricultural Labor Relations Board.

5 We are concerned that tough questions, pointed  
6 questions, be given to Mr. Davidian, taking a look at his  
7 experience and his competency.

8 I appreciate Senator Mello and Senator Petris raising  
9 very good questions.

10 The first one -- the first issue that we're concerned  
11 about would his experience. And I think Mr. Davidian has said  
12 that he has no labor law experience. That certainly concerns me.

13 I think that there are tremendous differences between  
14 the ALRA and NLRA, sophisticated nuances in the law that demand  
15 the person in the position of Chairman to know the differences  
16 and to talk about them, and to be ready to converse about them.

17 The second issue I would raise is that in the past,  
18 Mr. Davidian has said in past budget hearings that he wanted to  
19 streamline the process over at the ALRB and see that more cases  
20 started coming out.

21 I think my assessment and the investigation that I've  
22 done is that in fact that hasn't occurred. That nothing is in  
23 fact happening over at the ALRB. That the agency is in a state  
24 of ennui, in a state of kind of dragging its feet. That people  
25 are standing around doing nothing. That's a concern with us.

26 Finally, I think that there's an issue of leadership. I  
27 think, as Mr. Davidian has said, there's a compliance backlog  
28



1 that certainly is within the purview of the General Counsel's  
2 position. However, I believe that the Chairperson of the Board  
3 should be able to order the General Counsel to say, "Hey, you  
4 know, when are you going to start getting these things enforced?"  
5 I mean, this is the Board's decision.

6 For those reasons, I humbly am here to let you know that  
7 we are in opposition to Mr. Davidian, and I hope that you will  
8 ask further questions and oppose his confirmation.

9 Thank you.

10 CHAIRMAN ROBERTI: Is there any other opposition in the  
11 audience?

12 SENATOR ELLIS: Move confirmation.

13 CHAIRMAN ROBERTI: Senator Ellis moves confirmation be  
14 recommended to the Floor.

15 The current legal counsel has attended, from what I  
16 understand, fundraising meetings of a partisan nature and has  
17 actually spoken to organizations of growers at meetings gathered  
18 that were hostile to the union.

19 Do you think that's a proper role for Counsel, or do you  
20 know of any --

21 MR. DAVIDIAN: Who are you referring to?

22 CHAIRMAN ROBERTI: Mr. Stirling.

23 MR. DAVIDIAN: There is a considerable difference, I  
24 think, in the nature of the General Counsel and the nature of the  
25 Chairman of this Board.

26 I really -- I'm a judge; he's a prosecutor, essentially,  
27 is how that goes.  
28







1 In the real world out there as a trial lawyer, I saw a  
2 lot of prosecutors attend partisan political events. I saw some  
3 judges doing that as well.

4 But all I can say is that, you know, that I'm trying to  
5 maintain an appearance of neutrality. When I speak, I speak to  
6 people on my experience and my -- what I'm doing at the Board,  
7 and how I perceive things at the ALRB. I can really only speak  
8 for myself.

9 I don't advocate the overthrow of any union or anything  
10 like that myself, and I don't know of any occasion when  
11 Mr. Stirling has done that either. So I'm afraid I have to say  
12 I'm not really sure of the nature of what you're referring to,  
13 Senator.

14 CHAIRMAN ROBERTI: I wish I had the specific data, but I  
15 frankly think that's relatively common knowledge that he has  
16 actively, you know, participated in meetings on the outside which  
17 were hostile to the union and were of a partisan nature.

18 I'm saying that as my belief, because I don't have the  
19 actual data in front of me. Having made that statement, I don't  
20 intend to go out and search for it, but I think that's the case.

21 I want to know how you conduct yourself, or if you think  
22 that is a proper role for the Counsel.

23 MR. DAVIDIAN: I -- that's -- I don't know how I can  
24 answer the question.

25 Again, we have such a difference between the role of  
26 General Counsel and the role of the Board.

27

28



1 Is there further opposition in the audience?

2 Seeing none, Senator Ellis has made a motion.

3 Secretary will call the roll.

4 SECRETARY WEBB: Senator Ellis.

5 SENATOR ELLIS: Aye.

6 SECRETARY WEBB: Senator Mello.

7 SENATOR MELLO: Aye.

8 SECRETARY WEBB: Senator Petris. Senator Craven.

9 SENATOR CRAVEN: Aye.

10 SECRETARY WEBB: Senator Roberti.

11 CHAIRMAN ROBERTI: The vote is three to nothing;  
12 confirmation is recommended to the Floor.

13 Congratulations.

14 MR. DAVIDIAN: Thank you, Senators.

15 CHAIRMAN ROBERTI: I'm turning over to Senator Craven.

16 SENATOR CRAVEN: Very well.

17 The next item is Item Four, the confirmation hearing  
18 relative to Robert J. Norris, Jr., Associate Director, Century  
19 Freeway Housing Program.

20 Mr. Norris, if you'll come up and be seated. Tell us  
21 why you're qualified for that particular position.

22 MR. NORRIS: Thank you, Senator.

23 SENATOR CRAVEN: You're welcome.

24 MR. NORRIS: My name is Robert J. Norris, Jr.

25 The reason that I feel that I'm qualified for the  
26 position of Associate Director is, over the past 15 years, I've  
27 been involved in activities for the benefit of the economically  
28



1 and educationally disadvantaged communities. I've worked through  
2 educational programs, through academic institutions.

3 And dealing with these issues led to the employment of  
4 Special Assistant on the Century Freeway Housing Program in which  
5 I've spent the last four years, becoming acquainted and very  
6 active in the implementation of the amended Consent Decree, which  
7 guides the operations of the Century Freeway Housing Program and  
8 its multiple government interface within local, State and federal  
9 jurisdictions.

10 SENATOR CRAVEN: Very well.

11 Senator Mello, do you have any questions? Senator  
12 Ellis?

13 SENATOR ELLIS: Move.

14 SENATOR CRAVEN: I have a motion. Senator Ellis has  
15 moved conformation be referred to the Floor.

16 Is there anyone in the audience who wishes to speak in  
17 opposition? There appears to be none.

18 Call the roll.

19 SECRETARY WEBB: Senator Ellis.

20 SENATOR ELLIS: Aye.

21 SECRETARY WEBB: Senator Mello.

22 SENATOR MELLO: Aye.

23 SECRETARY WEBB: Senator Petris.

24 SENATOR PETRIS: Aye.

25 SECRETARY WEBB: Senator Craven.

26 SENATOR CRAVEN: Aye.

27 SECRETARY WEBB: Senator Roberti.  
28





1           SENATOR CRAVEN: Four-zero; the matter is referred to  
2 the Floor.

3           Congratulations.

4           MR. NORRIS: Thank you.

5           SENATOR CRAVEN: Next is Alice L. Stoner, Member, State  
6 Personnel Board.

7           Ms. Stoner, if you do as those who have preceded you  
8 have done, we would appreciate it.

9           MS. STONER: My name is Alice Stoner, S-t-o-n-e-r.

10          Thank you for giving me the opportunity to present my  
11 qualifications to you.

12          I'm presently employed by a law firm in Long Beach,  
13 Riedman, Dalessi and Dybens as a legal assistant.

14          In 1972, I passed a two-day examination given by the  
15 National Association of Legal Secretaries to be certified as a  
16 professional legal secretary. In 1973, I taught a Legal  
17 Procedures class at Long Beach City College. I'm a member of the  
18 Long Beach Legal Secretaries, Legal Secretaries, Incorporated,  
19 and Executive Women International.

20          I've served on the Board of approximately one year, and  
21 during that time the decisions I have made have been based on my  
22 own inquiries, and I feel they were fair and unbiased.

23          Since I've worked most of my adult life, I certainly am  
24 familiar with the problems that face the work force.

25          As you probably know, the State Personnel Board is  
26 involved with providing policy direction and guidance in the  
27 State's Civil Service Employment Program, establishing job  
28



1 classifications, providing leadership in the affirmative action  
2 program of the State, and adjudicating employee and applicant  
3 appeals and complaints.

4 I'm a strong supporter of these programs, and as a Board  
5 Member I expect to make a significant contribution to the  
6 organization.

7 Thank you for the opportunity to meet with you this  
8 afternoon, and I will be happy to respond to any questions.

9 SENATOR CRAVEN: Let me begin, Ms. Stoner, by asking you  
10 some questions which have been proffered by Senator Alquist.  
11 Senator Alquist represents the Santa Clara area and he can't be  
12 with us today, but he's written to the President Pro Tem, who is  
13 the Chairman of this Committee, and he has a couple of questions  
14 which I will ask on his behalf.

15 "Have you become familiar enough with  
16 the internal workings of the Board to  
17 insure that the best qualified people  
18 applying for State service are hired?"

19 MS. STONER: I think so.

20 SENATOR CRAVEN: Can you expand on that a little bit?

21 MS. STONER: Well --

22 SENATOR CRAVEN: Let me ask you another question: Do  
23 you know the mechanics of the Board as it relates to their job?

24 SENATOR ELLIS: Who's asking those questions?

25 SENATOR CRAVEN: Senator Alquist.

26 If that one causes you to slow down a little, let me ask  
27 you another one.

28



1 "There have been recent instances in  
2 which Personnel Board staff did not  
3 know enough about the kind of work  
4 which would qualify for specific  
5 position, and therefore, inappropriately  
6 disqualified applicants for State  
7 service."

8 In other words, the contention is that the people who are in a  
9 position to make a judgment on these positions did not know  
10 enough about the positions. In their lack of knowledge, they  
11 disqualified persons who were qualified to assume those  
12 positions.

13 Do you know anything about that?

14 MS. STONER: No.

15 SENATOR CRAVEN: Can you think of any instances?

16 MS. STONER: During the last year, mostly the things  
17 that we have heard have been appeals on reprimands, and you read  
18 them over, and you decide whether or not you think the people  
19 should be eliminated from a position or dismissed or whatever.

20 SENATOR CRAVEN: Very well.

21 MS. STONER: I mean, the things that are given to us,  
22 it's pretty well laid out that we can read them and, I think,  
23 make pretty good judgments.

24 SENATOR CRAVEN: All right.

25 The contention is:

26 "There have been recent instances in  
27 which Personnel Board staff have ..."  
28





1 those are the people who assist you,

2 "... have withheld letters [which  
3 have been] written by legislators to  
4 Board Members concerning matters on  
5 appeals, apparently due to Board  
6 policy."

7 Is there a Board policy which says that correspondence  
8 of that nature may not be seen by the Board prior to a matter  
9 before them?

10 MS. STONER: Well, I think this did happen in one  
11 instance. And now, I think the Board decided at the last meeting  
12 that we definitely should see all the letters that are directed  
13 to us.

14 SENATOR CRAVEN: So by virtue of an established policy  
15 now, you do receive and will be able to read?

16 MS. STONER: Right.

17 SENATOR CRAVEN: All right, very well.

18 Let me see if there's one other thing here. Well, the  
19 question was,

20 "Do you agree with this policy of with-  
21 holding ..."

22 Obviously you disagreed with the policy because you've changed  
23 it.

24 Very well.

25 Senator Mello, do you have any questions?

26 SENATOR MELLO: I've had the Sergeant call Senator  
27 Alquist who sent down this letter, of which you have a copy here.  
28



1 Senator Alquist is unable to be here, but I think the Chairman  
2 has adequately asked the questions on behalf of Senator Alquist.

3 SENATOR CRAVEN: Very good.

4 Senator Ellis.

5 SENATOR ELLIS: Move confirmation.

6 SENATOR CRAVEN: No questions. Senator Petris, do you  
7 have any questions?

8 There being none, Senator Ellis moves.

9 Is there anyone in the audience who wishes to testify on  
10 either side? There appears to be none.

11 SENATOR CRAVEN: On Senator Ellis' motion --

12 SENATOR MELLO: Mr. Chairman, before you call the roll  
13 on this --

14 SENATOR CRAVEN: Senator Mello.

15 SENATOR MELLO: There's something that's come to my  
16 attention, and that is the question of drug testing.

17 SENATOR CRAVEN: Drug testing?

18 SENATOR MELLO: Yes, mandatory drug testing to State  
19 workers.

20 That's becoming more prevalent in private businesses,  
21 professional sports.

22 What is your opinion? Do you think that State workers  
23 should be tested for the use of drugs?

24 MS. STONER: I certainly do, at least the applicants  
25 coming into the State, I certainly do think they should be  
26 tested.

27 SENATOR MELLO: Tested before they're hired?  
28



1 MS. STONER: Yes.

2 SENATOR MELLO: What about existing workers who have  
3 been working with the State?

4 MS. STONER: Well, I believe they should.

5 SENATOR MELLO: Existing workers?

6 MS. STONER: Yes.

7 SENATOR MELLO: How would you go about doing that?

8 Let me qualify that because I think where the dividing  
9 line might be, if there is some reasonable assumption that the  
10 person may be using drugs based on their habits, or not showing  
11 up for work, or something, or whether or not it should apply to  
12 everybody equally, all employees would have to submit to drug  
13 testing?

14 MS. STONER: Well, I know personally I wouldn't object  
15 to being tested. Unless people do have a drug habit, I think  
16 those are the only persons who would object to it.

17 SENATOR MELLO: You think those who are not on drugs  
18 would not object to testing?

19 MS. STONER: Well, as I say, I can only speak for  
20 myself. I wouldn't object to it.

21 SENATOR MELLO: Well, I think that the general premise  
22 out there is to follow our constitution, unless there's a crime  
23 committed, or some reasonable doubt that we are performing, then  
24 at that point perhaps there would be a basis for it.

25 I think a lot of people would object. I would object  
26 myself, even though I would lay money on the line, any amount of  
27 money they would want to put up, as far as the outcome of the  
28





1 drug test as it pertained to me. I would want to make some money  
2 on it if somebody put me through it, because I know that I'm  
3 completely free of drugs.

4 But on the other hand, I think it's an infringement of  
5 your constitutional rights just to be randomly testing for drugs  
6 if there's no basis for doing it.

7 SENATOR CRAVEN: And yet, Henry, it occurs to me, and  
8 this may not necessarily be the same, but it seems similar.

9 I certainly don't disagree with your constitutional  
10 interpretation, but about when the California Highway Patrol,  
11 particularly in the holiday season, puts up check points and  
12 stops people to examine them as it relates to alcoholic  
13 consumption? You know, that has been adjudged, I think, by the  
14 courts to be legitimate.

15 SENATOR MELLO: Yes, but I think the courts upheld that  
16 just recently, that it was legal to do that on the assumption of,  
17 my goodness, some 6,000 people killed in California in automobile  
18 accidents, and 80 percent are related to the use of alcohol.

19 I look at that as just a way to try to tighten down on  
20 those who are abusing the use of alcohol.

21 When it comes to just across-the-board, you know, we  
22 have 250,000 employees in State government. Every one, according  
23 to you answer, every one would have to submit to a drug test. I  
24 think that would be far broader than necessary.

25 If I had anything to say about it, I might ask someone  
26 who is acting up in a way that leads to the suspicion of the use  
27 of drugs. I think there are, perhaps, grounds for that if I'm  
28 the employer.



1           Hiring new people and submitting to drug testing might  
2 be more for them. They can turn down a job and not come if they  
3 think they're facing a drug test.

4           But I think it could be construed as a violation of  
5 privacy if it's done to everybody across-the-board.

6           I just wanted to find out how you felt about that.

7           SENATOR CRAVEN: May I ask Ms. Stoner, has the Personnel  
8 Board moved in any direction which would indicate an attempt on  
9 their part to initiate a system of that for State employment?

10          MS. STONER: Not yet. I think the only thing we have  
11 discussed is applicants coming into the State employment.

12          SENATOR CRAVEN: You mean as it relates to those  
13 applicants?

14          MS. STONER: Yes.

15          SENATOR CRAVEN: Has the Board taken a step to indicate  
16 that there should be an evaluation of them from a drug testing  
17 standpoint?

18          MS. STONER: We haven't made any decision yet.

19          SENATOR CRAVEN: I see, so to this time there is no  
20 policy?

21          MS. STONER: It's just been discussed so far.

22          SENATOR CRAVEN: Very well, I understand.

23          All right. I think we've gone through all we need,  
24 unless you have more questions, Henry?

25          SENATOR MELLO: What came to mind is, I think Secretary  
26 Schultz said to President Reagan said he would not submit to a  
27 drug test.

28



1 I may be incorrect.

2 SENATOR PETRIS: It was Schultz.

3 SENATOR MELLO: Secretary Schultz said he would not  
4 submit. If the President ordered members of his Cabinet to have  
5 drug tests, he said, "The heck with it. I will not submit to  
6 it."

7 Do you disagree with his contention or not?

8 MS. STONER: Yes. I told you, I would not mind. If  
9 someone said you have to have a drug test, I'd say fine. And I  
10 can only speak for myself in that regard.

11 SENATOR MELLO: Thank you.

12 SENATOR CRAVEN: It's an interesting thing.

13 The first instance that I can recall of anything similar  
14 to this, Nick, who is certainly a constitutional lawyer among  
15 other things, will very well recall when we had the sort of  
16 litmus test for Americanism, that you would swear that you were  
17 never a member of the Communist Party, or whatever, which goes  
18 back, I guess, to the late '40s. That, to me, was a similar  
19 invasion, if that's the way to describe it.

20 Well, so much for the editorial comment.

21 We have a motion by Senator Ellis. Would you call the  
22 roll, please.

23 SECRETARY WEBB: Senator Ellis.

24 SENATOR ELLIS: Aye.

25 SECRETARY WEBB: Senator Mello.

26 SENATOR MELLO: Aye.

27 SECRETARY WEBB: Senator Petris.  
28





1 SENATOR PETRIS: Aye.

2 SECRETARY WEBB: Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Senator Roberti.

5 SENATOR CRAVEN: Four-zero; recommended to the Floor.

6 Thank you very much, Ms. Stoner.

7 (Thereupon this portion of the Senate  
8 Rules Committee hearing was terminated  
9 at approximately 3:40 P.M.)

10 --oo0oo--  
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CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

29<sup>th</sup> day of January, 1988.

  
EVELYN MIZAK  
Shorthand Reporter









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APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM ELLIS

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

HENRY AGONIA, Director  
Department of Parks and Recreation

ROBERT RIVINIUS, Member  
Board of Governors of the California Community Colleges

HOWARD GOULD, Superintendent of Banks

TALMADGE R. JONES, Director  
Department of Fair Employment and Housing

DENNIS MALODY, Member  
California State Lottery Commission

PAT O'BRIEN, Legislative Chair  
California Park and Recreation Society

GERALD MERAL, Executive Director  
Planning and Conservation League

DR. THOMAS LOPEZ  
League of United Latin American Citizens

RICK PARMER, President  
California State Park Rangers Association





APPEARANCES (Continued)

BILL GARCIA

American G.I. Forum

American Mexican War Mothers

BEATRIZ MOLINA, National/State President

Mexican American Political Association

MANEUL MOLLINEDO, Director

Parks and Recreation

City of Chula Vista

Hispanic Recreation and Leisure Services Association



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P R O C E E D I N G S

--oo0oo--

CHAIRMAN ROBERTI: Next is Mr. Henry Agonia, Director of the Department of Parks and Recreation.

Mr. Agonia, we'll ask you what we ask all the Governor's Appointees; that is, why you feel you're qualified to assume this position.

MR. AGONIA: Honorable Senator Roberti and Members of the Committee, I'd like to answer that question, why I'm qualified to be Director of Parks and Recreation, first with my educational qualifications; second, with my experience as a parks and recreation professional; and lastly, what I see the direction of the Department in the future and how best I can be the leader of that direction.

My educational credentials are as follows: I have an Associate of Arts Degree in Ornamental Horticulture from Orange Coast College in Costa Mesa. I have a Bachelor of Arts Degree with a major in Park Administration from Cal Poly in Pomona, and I have a Masters Degree with a major in Environmental Planning from California State University at Northridge.

I've been involved with the parks and recreation profession for over 25 years. First employed by the City of Garden Grove in the early 1960s as a park maintenance employee and then with the City of Fountain Valley, I attained a position of Park Foreman and Park Superintendent, Assistant Director of Parks and Recreation, and finally the Director of Field Services.



1           Most recently, the last 16 years, I have been a park  
2 professional with the City of Glendale, where I was the Park  
3 Superintendent and most recently the last 10 years as the  
4 Director of Parks and Recreation for that city.

5           Concurrently with that tenure in Glendale, I have also  
6 been involved with the California Park and Recreation Society.  
7 This is a statewide organization of park and recreation  
8 professionals; 3,000 voting members and over 10,000 affiliate  
9 members. I've taken a leadership role in that organization, and  
10 my last position was that of President, President through  
11 statewide election.

12           I have had the pleasure of serving as the Director of  
13 the Department of Parks and Recreation for several months now.  
14 And during this period, I've been inspired by the Department's  
15 dedicated effort and stewardship of our State's outstanding  
16 natural cultural and recreation resources. Currently I have  
17 identified focus areas that will provide the direction for the  
18 Department as we enter the next decade.

19           The focus areas are as follows, and I'd like to comment  
20 on these. One is, the Department needs to exercise leadership in  
21 the delivery of recreation services. The Department must foster  
22 a sense of responsibility for Parks and Recreation resources  
23 through the adoption of a very important element, an outdoor  
24 recreation resource ethic.

25           We must as a Department strengthen our relationship with  
26 the education system. The Department must commit to providing  
27 the highest quality of service to our visitors and continue to  
28 emphasize the need for visitor safety.



1 We also must ensure that the urban recreational needs  
2 are met, and that is a major concern to me, is the urban  
3 recreational need.

4 We need to expand our alliance with the private sector  
5 as well as other public agencies in developing the recreational  
6 opportunities that will be needed by Californians.

7 We must actively protect significant natural cultural  
8 and recreation resources.

9 And lastly but most importantly, the Department must  
10 invest in our employees. We must recognize their value and their  
11 professionalism and their assistance in helping us to complete  
12 our mission.

13 I look forward to leading the Department through this  
14 action phase of this plan, and with cohesive effort of the  
15 Department employees, the Legislature and the administration, I'm  
16 confident that the Department can meet the challenge of the  
17 future, the challenge of making available to the citizenry of  
18 California the highest qualify recreational opportunity while  
19 protecting outstanding elements of our State's natural cultural  
20 and recreational resources.

21 Those are my qualifications, and I feel I am qualified  
22 for this position. However, I would at this time also like to  
23 address the Anza Borrego State Park off-road vehicle issue. I  
24 think that's an issue of concern that has been expressed to the  
25 Members of the Committee. I've provided a written response;  
26 however, I think that a verbal comment needs to be made at this  
27 time.

28





1 I am supportive of off-highway vehicle recreation  
2 programs. I have been accused of not being supportive, and I  
3 want to make it clear that I am supportive of that program.

4 The restriction of the off-highway vehicle use at Anza  
5 Borrego was a decision that was not made hastily. It's been an  
6 issue within the Department for many years. My decision was  
7 based on the fact that currently the Department is operating a  
8 State vehicle recreation area adjacent to Anza Borrego which is  
9 now currently 20,000 acres for recreational-specific use, and the  
10 Department is actively pursuing the acquisition of an additional  
11 20,000 acres. Also adjacent to Anza Borrego is BLM property that  
12 constitutes over a million acres for OHV use.

13 The concern in Anza Borrego was that of resource damage,  
14 and the resource damage by specific types of OHV vehicles. And  
15 with that much acreage for OHV use adjacent to our facility, it  
16 was felt that the enforcement of the restriction had to be made  
17 in order for us to protect the resource, the desert resource,  
18 that is fragile and is of great concern to the Department.

19 On another issue in regards to the support of Senate  
20 Bill S-7, I am not in support of that and not promoting S-7. On  
21 the contrary, I am supportive of the BLM Desert Plan, for I feel  
22 that that is the way that management or multi-management of the  
23 desert area, a fragile area, should be addressed through the  
24 planning process.

25 In summary, I will administer the off-road highway  
26 vehicle program as an element of the Department's responsibility  
27 as well as direct this Department in, hopefully, achieving the  
28



goals and missions as related to the Department as we operate the State Park system.

I bring new leadership and I bring new direction to the Department, and I request your support in my confirmation.

CHAIRMAN ROBERTI: Thank you, Mr. Agonia.

Senator Craven.

SENATOR CRAVEN: Mr. Agonia, the area which you mentioned, I think you said 20,000 acres adjacent, is that in the Ocotillo area?

MR. AGONIA: That is correct, it's the Ocotillo Wells State Recreational Vehicle area.

SENATOR CRAVEN: And that's devoted solely for that use or devoted to that use solely?

MR. AGONIA: That is correct. It is basically a Department program. It basically a facility that's designated for off-road vehicle use. And we are currently negotiating for an additional 20,000 acres for that specific use.

SENATOR CRAVEN: Is the problem as you see it with the off-road vehicles devotees that they recognize that that's there for their use, but they want to, if I can use the term, invade the more prescribed park area in Anza Borrego Park?

MR. AGONIA: That is correct. The Department in the past has allowed access to the Anza Borrego Desert for the off-road vehicle enthusiasts basically as a means of transportation to view a scenic portion of the desert. Within the last four or five years, they have used those scenic routes basically as a new advantage to coming up with new challenges and new areas of the desert for their use.



1           SENATOR CRAVEN: Would this be a utilization of the  
2 Coyote Canyon area?

3           MR. AGONIA: That is correct.

4           SENATOR CRAVEN: Is that basically the area that they  
5 have used heretofore?

6           MR. AGONIA: That is one of the areas. There are  
7 several areas, but Coyote Canyon is one of the areas that we've  
8 had significant resource damage.

9           SENATOR CRAVEN: There was a time, and I guess you  
10 alluded to this, that we had access there, vehicular access, in  
11 order to appreciate what I will call the view sites as opposed,  
12 really, to the bouncing around on the rough terrain.

13           Is that not correct?

14           MR. AGONIA: That is correct.

15           SENATOR CRAVEN: How do you separate one from another?

16           MR. AGONIA: The separation is basically, I think, the  
17 Department has provided that separation by designating specific  
18 areas for OHV use, the bouncing around use. And that belongs in  
19 the SVRAs, our controlled areas.

20           And the other is that we still would continue to provide  
21 access to the OHV enthusiast for the scenic view if in fact they  
22 would stay within that access boundary.

23           SENATOR CRAVEN: Now, I have had correspondence from  
24 persons representing that organization of off-road vehicle people  
25 who have made a contention that you refused, I think to use their  
26 word, to meet with them.

27           What can you tell us about that?  
28







1 MR. AGONIA: Well, the CORVA organization had a meeting  
2 in Sacramento. I was informed of that meeting on a Friday. It  
3 was on a Saturday, and I didn't make the meeting. However, the  
4 Deputy Director, who is in charge of the operation, was my  
5 liaison at that meeting and did attend.

6 That is the only meeting that I know of that I haven't  
7 attended. I have attended over three of the OHV commission  
8 meetings, and I have talked to all the OHV community leaders or  
9 organizations. And so, I have been receptive, and I will  
10 continue to be receptive to their concerns.

11 SENATOR CRAVEN: So your Department was represented in  
12 your absence?

13 MR. AGONIA: My Department was represented in my absence  
14 by the Deputy Director who is basically the manager of the  
15 program.

16 SENATOR CRAVEN: Very well, thank you.

17 CHAIRMAN ROBERTI: Senator Mello.

18 SENATOR MELLO: Mr. Chairman and Members, I met Mr.  
19 Agonia today for the first time. In looking back, he was  
20 appointed in April of last year. I told him that I thought it  
21 was strange that he'd wait until the day of his confirmation to  
22 come in and meet me as one Member, plus the fact that the  
23 district I represent has the first State Park in California, Big  
24 Basin, plus 10 percent of our county is in State Parks. There's  
25 just a tremendous need there.

26 I guess I was looking back to see, I think part of the  
27 problem we're having is the instability in that Parks and  
28



1 Recreation Department. When I first come up here, Herb Rhodes  
2 was the Director, Russ Cahill next, Peter Dangermond, Carol  
3 Hallett, William Briner, and now Henry Agonia.

4 The point I want to make is, I've got about ten projects  
5 that I've been dealing with all these Directors on, and many of  
6 them were on the priority, were in the budget ready for funding.  
7 And finally now, with this latest Director, I'm starting from  
8 scratch again.

9 I just think it's unfair, and the unfairness comes from  
10 all these different directors, that you can't build up  
11 continuity.

12 And Mr. Agonia, certainly I wish he'd have come in  
13 earlier to talk because I would have told you what my own  
14 personal priorities are. And I wonder, if it's happening in my  
15 district, I think it's happening around the state.

16 The Park area Manager for the Monterey Bay, Ray Jenkins,  
17 and I started an aquatic safety program because there were about  
18 30 deaths that occurred down there from drownings in the last ten  
19 years. They recommended up here, Mr. Agonia in the new budget  
20 recommended against it. And to me, this is a real setback  
21 because we're not going to be able to fund those much needed  
22 positions.

23 Custom House Plaza in Monterey that was on and off and  
24 one of the first priorities, it's where the American flag was  
25 raised by Admiral Sloat proclaiming California for the United  
26 States, a great historical building. It's been up as high as the  
27 first priority for the budget. Now in the last budget, it  
28



1 slipped down to bottom again because when the new Director comes  
2 in, you have to try to get him to know what some of the  
3 priorities are.

4 Another one in Santa Cruz, Enrique Rodriguez Adobe, is  
5 the only standing adobe from the Father Serra era because the  
6 mission was destroyed and torn down. We put money in the budget  
7 to help keep the building from falling down, and we're in the  
8 process of a reconstruction. Only two percent of the work has  
9 been completed due to the illness of the Project Director, which  
10 shows the Parks Department's real noncommitment to it.

11 Lighthouse Field, we bought that to try to protect it.  
12 It's right on the coast. Now the State's share of some 25  
13 percent, the Department is unwilling to pay their share, but  
14 they're willing to put it in the 1989-90 budget. That's not  
15 88-89; that's another two years away.

16 And then, you mentioned the off-road vehicles, I've been  
17 getting hundreds of calls from people from within my district  
18 concerned about your philosophy of off-road vehicles. You told  
19 me this morning that you met with them after you made your  
20 decision to close down the off-road vehicle in the Anza Borrego  
21 Desert. But they remain opposed: The California Off-road  
22 Vehicle Association; the Motorcyclists Association; the Off-road  
23 Enthusiasts Association; Jim Livermore from Livermore Associates;  
24 Theodore Carr, Certified Leisure Professionals. There's 97  
25 letters and over 1,000 signers of a petition. In fact, one of  
26 the signatures on there, the person claims he doesn't know you  
27 and didn't sign the petition, and I guess Senator Roberti  
28 responded to that issue.







1           From my own personal perspective, and this is not news  
2 to you because I told you the same thing this morning, I just  
3 question your background of a City Park administrator which  
4 appears to be part of your background, but you're not really  
5 looking at the statewide Parks and Recreation needs in my area,  
6 for whatever reason. I don't know, maybe it's coming from the  
7 administration or the Department.

8           I'm taking a heck of a setback on projects that were  
9 very high on the priority. I don't plan on voting for you today.

10           I'm going to ask the Committee if they could put him  
11 over until April 6th. His date is not up until April the 13th.

12           I want to go back and discuss this with people in the  
13 Monterey Bay area plus meet with the off-road vehicle people.  
14 Because I think in off-road vehicles, the minute you push them  
15 off from a place where we can concentrate and allow them to  
16 operate, then they start going out in the hills, creating a lot  
17 of erosion, a lot of fires, and everything else.

18           But I'm just not a bit happy the way one of the most  
19 sensitive spots in the State of California has been setback by  
20 your administration. The way we've gone through all these  
21 directors, we have to keep starting from scratch again to try to  
22 build our case.

23           CHAIRMAN ROBERTI: On Senator Mello's request, generally  
24 we will respect the request of a Senator as far as the timing of  
25 taking a vote, so I plan to do that, but I think April 6th is  
26 cutting it too short. I would say March.



1           SENATOR MELLO: That would be following Easter vacation  
2 coming up on the week before that.

3           CHAIRMAN ROBERTI: Still, I think this is cutting it too  
4 short.

5           As far as my own feelings, while we're at it, I  
6 personally think Mr. Agonia's done a good job, both in his  
7 current position and as the Director of Parks and Recreation in  
8 Glendale, which happens to be the community that abuts my  
9 district. I just think they have an excellent park system there.  
10 A number of my constituents and people that live there make use  
11 of really an excellent park system.

12           But, Senator Mello's point is very well taken, and we  
13 have to --

14           SENATOR MELLO: I can bring back a lot more evidence --

15           CHAIRMAN ROBERTI: Let's first try to get a date, then  
16 we're going to try to hear all the witnesses because many people  
17 have traveled.

18           SENATOR MELLO: April 6th would be the last date. That  
19 would allow us to have two meetings: April 7th and April 11th.  
20 The date before that would be March 23rd, which would allow us  
21 the 24th and the 4th and the 7th and 11th, and allow us about two  
22 weeks, excluding the Easter week when we won't be here anyway.

23           CHAIRMAN ROBERTI: What about March 23rd?

24           MR. AGONIA: Could I --

25           CHAIRMAN ROBERTI: Yes, Mr. Agonia.

26           MR. AGONIA: Could I comment on one thing.  
27  
28



1 I think I know the concern of Senator Mello in regards  
2 to meeting with him today. We had discussed a meeting with  
3 Senator Mello's office earlier this year, but we were waiting for  
4 this report on the Lifeguard Safety Program, and that was one of  
5 the reasons that I haven't met with him.

6 The other is that my confirmation was originally  
7 scheduled for the 17th, and I have been meeting with the  
8 Legislature for the last two months. It just happened that  
9 Senator Mello's date fell today, the 3rd, and that meeting had  
10 been scheduled prior to this date.

11 So, I am responsive to Senator Mello and I am responsive  
12 to his concerns.

13 I think that I needed to make that clarification. I  
14 didn't set the meeting up today just because I was coming up for  
15 confirmation today. It was basically I thought I had at least a  
16 couple of weeks to you about any issue that you might have before  
17 my confirmation.

18 SENATOR MELLO: The point I'm saying is, you got  
19 appointed on April 13th, 1987. That's ten months ago.

20 MR. AGONIA: That is correct.

21 SENATOR MELLO: My goodness, that's facing --

22 MR. AGONIA: There were a couple of programs at Monterey  
23 in which I thought I would get to meet you: The dedication of  
24 the Asilimar grounds. I assumed you were going to be there at  
25 that time, and that would have been an opportunity to talk.

26 SENATOR MELLO: If you had called me, I would have met  
27 with you down in the district.  
28





1 But, you know, I take it as a personal affront that you  
2 just come in this morning and introduce yourself and not give me  
3 a chance to really discuss with you these important issues in my  
4 district.

5 MR. AGONIA: I understand that.

6 In the area of continuity, I guess the only way I can  
7 address the continuity is that at some point in time, there has  
8 to be a selection of a Director that can provide continuity. And  
9 I think the way of doing that is basically by developing the plan  
10 that I have proposed today, and that's showing what the direction  
11 will be for the Department for, you know, not only my  
12 administration but future administrations, too. And hopefully,  
13 that's the way to address it.

14 CHAIRMAN ROBERTI: Thank you, Mr. Agonia.

15 We will take witnesses in support. I will recommend  
16 that March 23rd be the date for the vote. We'll take the vote on  
17 the continuation of the appointment after we hear all the  
18 witnesses.

19 Witnesses in support. Are there witnesses in support?  
20 Please come forward.

21 SENATOR CRAVEN: May I, before they start, Mr. Chairman?

22 CHAIRMAN ROBERTI: Senator Craven.

23 SENATOR CRAVEN: I want to ask a question of Senator  
24 Mello.

25 Senator Mello, you detailed to at least a small degree  
26 some of the areas that you feel deserve attention within your  
27 district.



1 Is the postponement to a later date as it relates to the  
2 confirmation of Mr. Agonia going to rest on getting more  
3 information? What you have today, isn't that sufficient  
4 information?

5 In other words, will the delay provide you with more  
6 information?

7 SENATOR MELLO: That's my reason, Senator Craven.

8 I think that if you want to check my voting record, I've  
9 supported the Governor's Appointees at least equal to the  
10 majority Members here, so I'm not trying to defeat his  
11 confirmation.

12 But I really think his lack of responsiveness to the  
13 programs in my district, I want to get more information that I  
14 can give to him.

15 SENATOR CRAVEN: There was no question in my mind that  
16 you approach these things very fairly.

17 But I just don't like to see any Nominee put in a  
18 position where they're going to have to recant in order to  
19 assuage a Member of this Committee and garner that vote.

20 SENATOR MELLO: You can look back again at my record, I  
21 don't try and quid pro quos as far as getting my vote.

22 But on the other hand, if there's a complete absence of  
23 response to the Monterey Bay area, I'm the duly elected Member  
24 from that area and I want to speak out on issues that are  
25 important. These issues here have been number one and have been  
26 a very high priority in the Department at varying times. Now,  
27 under his administration, they've gone right to the bottom.

28



1           That's why I want to find out why.

2           SENATOR CRAVEN: Why there's a change in priorities?

3           SENATOR MELLO: Yes, I want to find out why such  
4 historical monuments, like the Custom House Plaza --

5           SENATOR CRAVEN: You did not discuss that today  
6 evidently?

7           SENATOR MELLO: I did. I went over these with him  
8 today. This is the first time I've had a chance to meet him,  
9 about 11:00 o'clock this morning.

10          CHAIRMAN ROBERTI: Why don't we take our witnesses.

11          SENATOR MELLO: I can tell you this, Senator Craven,  
12 anybody that's up for confirmation that has some controversy, my  
13 doors are always open. I believe I meet with almost all of the  
14 Nominees to try to hear their side and to avoid some dialogue  
15 here. I think if we can do it in raising these issues, then why  
16 go through it here.

17          SENATOR CRAVEN: Yes, fine. Certainly you're entitled  
18 to your opinion.

19          I don't think he has any -- I know he doesn't have any  
20 control over the continuity. That's something way beyond him.

21          He may be getting ready to be an ambassador, which one  
22 of his predecessors became.

23                               (Laughter.)

24          CHAIRMAN ROBERTI: If our concern is continuity, we're  
25 at fault in part.

26          SENATOR CRAVEN: Yes, I think.  
27  
28





1 But I'm impressed by the fact that, unlike another  
2 director whose tie, tenuous though it may have been, was the fact  
3 that a parent was a Park Ranger and that was it, he has been  
4 educated through probably eight years of collegiate work in his  
5 field, and he's very knowledgeable, I think, from a technical  
6 professional standpoint.

7 I suppose, like any professional, he makes judgments  
8 based on what he thinks is appropriate. Unfortunately for  
9 professionals, and staff certainly can appreciate this, they may  
10 not necessarily be in consonance with the people who pass  
11 judgment. That is, you and me, and those of us who are  
12 Legislators.

13 So, I just have to have some feeling for the position in  
14 which he finds himself.

15 CHAIRMAN ROBERTI: Witnesses, please state your name.

16 MR. O'BRIEN: My name is Pat O'Brien. I'm the  
17 Legislative Chair of the California Park and Recreation Society.  
18 I know many of you are familiar with our organization, a  
19 statewide organization of professionals and Board and Commission  
20 members.

21 I think our organization is -- not I think but I know  
22 our organization is solidly behind Henry Agonia's nomination. As  
23 you're aware, as testimony here has brought out, his educational  
24 background, his experience, and probably even more than all of  
25 that, his dedication, because his personal dedication is  
26 something I can really talk about, to the areas of Parks and  
27 Recreation, to the concerns, environmental concerns, the use  
28



1 concerns for the public and the people of California. Those are  
2 the things that really don't go on a resume, but I can tell you  
3 about that because I have firsthand knowledge.

4 Henry is more than an education person in the field.  
5 He's more than someone with experience. He's got a commitment.

6 I recall -- Billy Mills was a friend of mine who's won  
7 the Olympic Gold Medal for the United States, the 10,000 meters  
8 in Tokyo, '64 Olympics, said, "One person with commitment's worth  
9 a thousand that are just hired to do that job."

10 So, when you get Henry Agonia, you don't get someone  
11 just hired to do the job. You get somebody worth 10,000 people  
12 of commitment, and that's Henry.

13 You know, maybe some errors were made along the way, but  
14 you can't buy that commitment. That's something that he comes  
15 with, his own personal makeup.

16 I think Henry's going to do an outstanding job for you,  
17 and I think, like Silky Sullivan -- those of us old enough to  
18 remember Silky Sullivan -- he comes -- he might run a little bit  
19 behind the pack in the beginning, but he overtakes everybody, and  
20 he overtakes it with commitment and quality.

21 That's why I'm here to support Henry, and that's why the  
22 California Parks and Recreation supports Henry.

23 CHAIRMAN ROBERTI: Thank you very much, Mr. O'Brien.

24 Next witness.

25 MR. MERAL: My name is Gerry Meral. I'm the Executive  
26 Director of the Planning and Conservation League.

27 We are in support of Mr. Agonia's nomination.  
28



1 I'd like to address directly the concern that's been  
2 raised by the Committee and by many individuals, evidently,  
3 regarding his decision at Anza Borrego State Park.

4 We felt he made the right decision. Anza Borrego State  
5 Park is the largest single State park in the continental United  
6 States. It's a treasure for California, and it's something that  
7 needs to be protected from abuse.

8 The Director's decision in protecting Anza Borrego does  
9 recognize the availability of off-road vehicle opportunities  
10 throughout Southern California, and especially near the park, and  
11 we strongly support his decision and hope that you will not  
12 criticize him for it.

13 We have taken issue with the Department regarding the  
14 issue of grazing in Mount Diablo State Park. We've communicated  
15 with Director Agonia on that issue. We believe it should be  
16 curtailed because it's a commercial activity. He's considering  
17 our request. We hope he'll decide in our favor.

18 But in any case, we support his nomination because we  
19 feel he provides fair access to the environmental and other user  
20 communities in the State Parks, and we believe he will perform  
21 very adequately in the position which he holds today.

22 CHAIRMAN ROBERTI: Thank you very much, Mr. Meral.

23 Next witness.

24 DR. LOPEZ: Senator Roberti, Members of the Committee,  
25 my name is Dr. Thomas Lopez. I'm here representing the state  
26 organization League of United Latin American Citizens, LULAC,  
27 also the local Lorenzo Patino LULAC Council and the Northern  
28 LULAC District Office.







1           Our organization is one of the oldest Hispanic  
2 organizations, and it's a nonpartisan organization. We look at  
3 issues and then, based on the issues, then we make our decisions  
4 for support or opposition.

5           And Mr. Agonia has convinced our organization that he is  
6 well qualified. We were very impressed with his qualifications,  
7 his educational background.

8           He is fair, sensitive, and deserving of this position.

9           He recently made a presentation to his staff, 10 Point  
10 Plan for the future of the Parks and Recreation. And in those 10  
11 Points, one of the points was an aggressive outreach program for  
12 the nontraditional users of the Park system, such as the  
13 disabled, the Hispanics, the Blacks, the economically  
14 disadvantaged.

15           His aggressive affirmative action philosophy, as  
16 evidenced in his actions and his focus on equity, such as the  
17 appointment of a Hispanic female in a Superintendent's Class, and  
18 the approval of an upgrade for a Hispanic in a CEA series, and  
19 then his commitment to training programs in affirmative action,  
20 the support of the outreach program in the concessions area, are  
21 noteworthy and merit our continued support.

22           And so, LULAC encourages his confirmation and is willing  
23 to continue to work with him in his outreach program in the  
24 community.

25           CHAIRMAN ROBERTI: Thank you very much, Dr. Lopez.

26           Any other witnesses? Yes, please come forward.  
27  
28



1 MR. PARMER: My name is Rick Parmer. I'm the President  
2 of the California State Park Rangers Association. We're the  
3 oldest professional association of State Park employees in the  
4 state. We include archeologists, State Park Rangers, and  
5 resource ecologists among other job classifications.

6 I'd like to enthusiastically support the confirmation o  
7 Henry Agonia to be the next Director. We don't always agree on  
8 the issues. We thought that he took a very courageous stand on  
9 the Anza Borrego situation, and it's a very difficult decision to  
10 make.

11 But one of the things that we've lacked in the State  
12 Parks Director is somebody with the courage to make decisions,  
13 good or bad.

14 And I do believe that in reference to State Senator  
15 Mello's comments, that Mr. Agonia has the leadership potential  
16 and capability to take this Parks system forward. Though we  
17 disagree with the position on Senate Bill Number 7, we've found  
18 that he's a Director that we can work with, both in areas that we  
19 agree and areas that we disagree with.

20 There are problems in the Parks in terms of general  
21 plans and development that need to be addressed and are long-term  
22 deficiencies, but we think that he has the capability to do deal  
23 with those, and we're supportive of his confirmation.

24 CHAIRMAN ROBERTI: Thank you very much.

25 Any further witnesses? Please come forward.

26 MR. GARCIA: Mr. Chairman and Members, I've been up here  
27 a few times, usually on the other side.  
28



1 CHAIRMAN ROBERTI: We remember.

2 MR. GARCIA: In this one instance, however --

3 CHAIRMAN ROBERTI: For the record, state your name.

4 MR. GARCIA: My name is Bill Garcia. I apologize.

5 CHAIRMAN ROBERTI: Yes, we know, but just for the  
6 record.

7 MR. GARCIA: It's a pleasure to be here today to support  
8 Mr. Agonia's confirmation.

9 I represent the statewide American G.I. Forum and the  
10 American Mexican War Mothers. The statewide American G.I. Forum,  
11 of course, is a veterans' organization. It's a nationwide  
12 organization.

13 We are very concerned about assisting veterans in their  
14 pursuits after they are released from military service. Mr.  
15 Agonia is a member of the G.I. Forum.

16 We recently met with Mr. Agonia, and we discussed our  
17 concerns with Mr. Agonia. And we came away very satisfied that  
18 Mr. Agonia will be sensitive and a fair and impartial person in  
19 carrying out the duties of his office. And of course, those  
20 concerns are very vital areas that we expressed to him and which  
21 he voiced support for.

22 We urge you to confirm Mr. Agonia, and we think he would  
23 be an asset. We hope that the Governor will see fit to forward  
24 other individuals such as Mr. Agonia, or at least of Hispanic  
25 origin, for your consideration in the future. We don't think  
26 enough of that is happening, Mr. Roberti.

27 CHAIRMAN ROBERTI: Thank you very much, Mr. Garcia.  
28





1 MR. GARCIA: You're quite welcome.

2 CHAIRMAN ROBERTI: Any other witnesses in support?

3 MS. MOLINA: If you'll allow me to introduce myself, I'm  
4 Beatriz Molina. I'm the National/State President of the Mexican  
5 American Political Association.

6 I'm officially not here to either oppose or support the  
7 appointment of Henry Agonia as Director of Parks and Recreation.  
8 However, there are some issues that have been plaguing this  
9 Department that we felt were of critical importance to our  
10 organization and the organizations that he will be addressing.  
11 And we felt that coming before you today, we would at least have  
12 the opportunity to share some of these issues and, hopefully,  
13 that would create some kind of communication and partnership in  
14 the future where the Department would become more responsive to  
15 some of these issues.

16 Hispanics historically have played a minimal role with  
17 recreation services in California. When Hispanics have had to be  
18 concerned with socioeconomic issues, a significant percentage of  
19 the community has been disenfranchised, and that's proven.

20 This is especially true in the area of recreational  
21 services. As a direct consequence, a significant percentage of  
22 our community must rely on the State to provide opportunities  
23 that are conducive to everyone's inherent need and right to  
24 participate fully in recreation and leisure services.

25 This Department has historically been confronted with  
26 civil rights violations. Moreover, the track record for  
27 affirmative action has been a major disgrace. As a result, the  
28



1 Department has been placed under sanction imposed by your own  
2 State Personnel Board.

3 Historically, Hispanics have been severely under-  
4 represented in the work force of the State Department of Parks  
5 and Recreation. The representation of Hispanics in the  
6 administrative line staff is minimal. The representation of  
7 Hispanics in middle management level is even more minuscule in  
8 comparison to the number of positions that are available. The  
9 Department as of today has yet to reach 1970 Census parity  
10 figures of 13.1 percent, much less of the 1980 figures of 17.2  
11 percent. How will it meet the estimated 1990 figures which will  
12 be approximately over 20 percent?

13 I did include in my presentation charts of all the  
14 hirings in the Department and a number of other charts to support  
15 this presentation.

16 While there has been some progress in hiring due to  
17 attrition, the representation changed since the Department has  
18 been under sanction from 1981, 6.3 percent Hispanics, to 1987, of  
19 10.3 percent Hispanics, which represents an average increase of  
20 .67 percent per year. The overall net increase only amounted to  
21 4 percent.

22 If this hiring trend continues, it will take 10.3 years  
23 to reach 1980 parity figures; 14.5 years to reach an estimated  
24 1990 labor force parity. The concern is obvious: Unless  
25 dramatic changes are made in policy in relationship to  
26 recruitment, hires, and retention, the Department will remain  
27 under sanctions for quite a great time.  
28



1 In the area of recruitment, a partnership must be  
2 developed and nurtured with the Hispanic community to ensure a  
3 pool of qualified candidates at all levels within this  
4 organization. The hires are not reflective of the proportion of  
5 Hispanic applicants. Moreover, this demonstrates that there are  
6 still some problems within the Department in terms of the  
7 selection process.

8 The Department has yet been unable to retain those  
9 Hispanics who've been hired, suggesting the lack of upward  
10 mobility. Out of the 90 Ranger II series, only 6 percent are  
11 Hispanics. On the average it took nearly 10 years to reach the 6  
12 percent figure.

13 Historically, the Department has been unable to identify  
14 the specific needs of the Hispanic community. As a consequence,  
15 Hispanics have not fully participated in what the Department has  
16 had to offer. The level of participation of Hispanics has been  
17 minimal due to the lack of publicity, resources, and programs  
18 specific to our needs.

19 With the rapid changing demographics, it is imperative  
20 that the Department begin to sensitize itself in effectively  
21 reaching all segments of this community. Currently minorities,  
22 specifically Hispanics, are not aware of what the Department can  
23 offer in the area of services. Hispanics in the near future will  
24 be the majority. If the Department is unable to reach this  
25 population, the current trend of limited use, which is really our  
26 concern, will remain constant. Therefore, Hispanic use will not  
27 change in spite of their increase in the population.  
28







1           The Department's mission is to acquire, develop,  
2 preserve, and interpret the cultural and the natural resources of  
3 the State, while at the same time providing recreational needs  
4 for all present and future Californians. It is critical that the  
5 Department play a leadership role that incorporates those values  
6 that are representative of all Californians in the development of  
7 its goals.

8           Therefore, the Department must begin to prioritize those  
9 efforts that will reach out to all Californians. This will  
10 require a special leadership that has vision, commitment and  
11 creativity in meeting its challenge.

12           CHAIRMAN ROBERTI: Senator Mello.

13           SENATOR MELLO: You cited some good statistics there.

14           Do you have a commitment from Mr. Agonia that he will in  
15 fact follow your recommendations to the management team and also  
16 bring about a more aggressive hiring policy to bring parity to  
17 the number of Hispanics who are not now serving in this  
18 Department?

19           MS. MOLINA: I need to preface that. The current  
20 situation of the Department clearly is a situation that he  
21 inherits. He had very little to attribute to the poor record,  
22 and I tried to explain that this has taken a while to reach the  
23 level it's reached.

24           However, it is our feeling, and we have met with Henry,  
25 and we will continue to meet with him and offer any partnership  
26 that we can, but we still are concerned that there has to be a  
27 very aggressive approach.

28



1           Currently the management team does not have Hispanic  
2 representation. The middle management only has two. So, we are  
3 concerned about that. We're concerned about the people in the  
4 policy positions need to be reflective of all the minorities.  
5 And until that happens, we do have concerns.

6           SENATOR MELLO: You're supporting his confirmation?

7           MS. MOLINA: We're taking a neutral position.

8           SENATOR MELLO: Oh, you're neutral, okay. So then, you  
9 don't have a commitment from him that he will try to bring parity  
10 to the affirmative action program?

11          MS. MOLINA: Well, I'm not sure that I can respond to  
12 that. I mean, I think that that's an open process that's going  
13 to take a great deal of work.

14          I think the problem is far more global than just his  
15 direction. I think our purpose in coming here today was hoping  
16 that you would recognize the severity of this problem because we  
17 think this is a problem that will face our community for the next  
18 10-20 years, as soon as the demographics will really begin to  
19 have an impact in terms of park usage.

20          It is our hope that with the Legislature monitoring some  
21 of these particular areas that I have suggested, that that  
22 certainly would create more momentum for the Department as a  
23 whole to begin to respond, not just the Director.

24          I think that we have a civil service system that is very  
25 hard to penetrate. And the issue of applying pressure has to  
26 apply to everyone, not just the Director.

27

28



1           SENATOR MELLO: Don't you think he'd be in a real bind  
2 if he followed your recommendations and the statistics that  
3 you've outlined here, which shows that the affirmative action  
4 hasn't been working in the Parks Department, and his appointing  
5 authority, the Governor and the administration, who have opposed  
6 -- over in the Assembly they have these 15 and 5 plans to share  
7 some of the bond money with minority groups -- don't you think he  
8 would be running into a real conflict with the Governor if he  
9 were to aggressively go out and try to raise the number of  
10 Hispanics that are in the Parks and Recreation Department?

11           MS. MOLINA: To quote one of the priorities that the  
12 Governor has come out publicly on a number of occasions in the  
13 last two years, one of the priorities was to address the issue of  
14 under-representation of Hispanics in the work force.

15           So, we believe that this is right in with one of the  
16 priorities that the Governor has been very clear on.

17           SENATOR MELLO: Are you aware of the administration's  
18 opposition to placing in these different bond issues a mandate  
19 that a certain percentage of money for jobs would go to  
20 minorities?

21           MS. MOLINA: No, I was not.

22           SENATOR MELLO: Well, he's opposing that.

23           I think Mr. Agonia's going to be in a tough spot trying  
24 to make you happier and also keep his good relationship with the  
25 administration.

26           SENATOR CRAVEN: May I --

27           SENATOR ELLIS: Yes, please, Senator Craven.  
28





1 CHAIRMAN ROBERTI: Senator Craven, Senator Petris then  
2 Senator Ellis.

3 SENATOR CRAVEN: Who's up?

4 CHAIRMAN ROBERTI: Craven to Petris to Ellis.

5 (Laughter.)

6 SENATOR CRAVEN: Ms. Molina, I was interested in the  
7 statistics, and as you began your presentation I thought, well,  
8 you know, this doesn't take into consideration the mores of,  
9 perhaps, the Mexican Americans as to their application for these  
10 job opportunities.

11 But then later on you said that there was a  
12 disproportionate amount of hires based on the amount of people  
13 who had applied.

14 Did I interpret your remarks correctly?

15 MS. MOLINA: That's correct.

16 SENATOR CRAVEN: Then my next question is, why do you  
17 think that that was the case? Do you think it was a question of  
18 outright overt capriciousness on the part of the persons in the  
19 system who do the hiring, or to what do you attribute that?

20 MS. MOLINA: In all honesty in looking at this problem,  
21 and I did refer back to the difficulty of impacting the civil  
22 service system which places individuals in a very safe posture  
23 without them having to be responsive to any community or any  
24 other pressure that may be applied, it appears to us that, and  
25 this is not my own observations, but clearly this Department has  
26 had a number of problems in terms of racial and sexual  
27 discriminations over the last eight years. They have one of the  
28



1 highest percentage of racial discrimination cases filed within  
2 the Department by employees against the Department.

3 I think what that attributes to on a very general basis  
4 is that there seems to be a real lack of sensitivity, not just  
5 for Hispanics but I think for minorities and for women in this  
6 particular field.

7 SENATOR CRAVEN: If I may interrupt you here, you are  
8 now referring to people who are already in the system.

9 MS. MOLINA: But those are the people who hire -- see,  
10 this Department has one advantage that many departments do not.  
11 It has a significant entry level position, the Rangers, that they  
12 can hire, and many departments are affected by freezes. But this  
13 Department has a class where they can bring entry level positions  
14 in, okay.

15 We're concerned about the people who hire on that level  
16 for the entry positions because the minorities are not being  
17 picked up. That's one issue.

18 The second issue is on the middle management, why are  
19 these same individuals not being tracked through the system? It  
20 takes an average of 8-10 years to go from one level to first line  
21 supervisor, which is not even middle management.

22 So I have to come back and say that somewhere in  
23 management there seems to be a resistance, and more than that I  
24 can't really say. And the data supports that.

25 SENATOR CRAVEN: What was the result of the cases that  
26 were filed, discriminatory charges?

27

28



1 MS. MOLINA: Well, some of those are not public  
2 information, so we're not allowed to see that.

3 SENATOR CRAVEN: So you're just presuming that this is  
4 the case?

5 MS. MOLINA: No, there was a report that came out  
6 recently by the State Personnel Board on the numbers of  
7 discrimination cases, that by the time it reaches the State  
8 Personnel Board, who monitors those cases, they do an analysis of  
9 the percentage by department by number. And it's just a little  
10 significantly higher for the percentage of Hispanic employees, so  
11 it's significantly higher.

12 SENATOR CRAVEN: I would be naive to think that there  
13 were people who did not have some thought of discrimination. I  
14 have to live with that just as you have to live with that. We  
15 both recognize that that's the case.

16 But I have trouble bringing myself to believe that the  
17 Department as a hiring entity has a certain fixation against  
18 hiring Mexican American people. I just find that very, very  
19 difficult to believe.

20 MS. MOLINA: Well, I can't argue with the figures. I'm  
21 giving you figures that we got from the Department and from State  
22 Personnel Board. They're not our interpretation; they are  
23 straight figures by numbers and percentages.

24 Beyond that, we're free to make our own conclusions.

25 SENATOR CRAVEN: Let me ask you one other thought.

26 I appreciate your remarks, and your remarks are most  
27 articulate.







1           When you apply for employment, is there a test that is  
2 required of an applicant?

3           MS. MOLINA: Yes, there is. There's a written exam  
4 which is the same as everyone else. It's an application, and  
5 then -- I mean, there's an application form and there's a written  
6 exam.

7           SENATOR CRAVEN: Now, the people that you say have in  
8 effect been discriminated against, those persons I'm presuming  
9 all passed that test?

10          MS. MOLINA: Well, again, you know, I have and the State  
11 Personnel Board, I guess, and I'm not an employee of this  
12 organization, do not have access. I only have access to the  
13 information that's released at the end of the process, not in the  
14 middle of the process. So I'm not in a position to respond to  
15 that.

16          But I'm sure if you ask a representative of the State  
17 Personnel Board, that's their expertise, that they would be  
18 better equipped to answer on a technical response that question.  
19 I cannot.

20          SENATOR CRAVEN: My point I guess basically is that a  
21 lot of us, perhaps all of us, have a certain quest to attain a  
22 particular level beyond that which we presently enjoy. And  
23 sometimes we are forestalled in that movement by virtue of the  
24 fact -- well, I'll give you an example.

25          A couple of weeks ago I applied to General Atomic, which  
26 is in San Diego, and I thought it would be nice to be a nuclear  
27 physicist. And they interviewed me and said that I was just the  
28



1 type of man that they thought would make a very good  
2 representative except that I knew absolutely nothing about  
3 physics whatsoever.

4 I'm just wondering if some of these applicants just  
5 didn't cut it from the standpoint of knowing what they should  
6 have known about Parks and Recreation?

7 MS. MOLINA: Well sir, to use your analogy, I will give  
8 you the example of the Department of Corrections. I sit on a  
9 task force that monitors the hiring.

10 Four years ago, they were not able to hire above a 12.5  
11 percent of bringing in Hispanics. They put in a very aggressive  
12 recruitment. They allocated resources and money. They have  
13 Hispanic people who go out there, talking to the community,  
14 recruiting.

15 Today on record, they have a hire rate of 27 percent,  
16 which is almost 150 percent increase over the last three years.  
17 Which tells me that if all the right things are in place, and  
18 we're talking about process, resources and individuals, then it  
19 is not impossible to hire Hispanics. We are out here.

20 SENATOR CRAVEN: Well, you mentioned the figure 12½  
21 percent initially. That's a goal; isn't it? It isn't a ceiling.

22 MS. MOLINA: No, the Department -- you have to  
23 understand that the Department is under sanction by the State  
24 Personnel Board. What that meant was that the hiring rate was so  
25 bad, even within the internal system, that the State Personnel  
26 Board put a sanction to the Department mandating that the  
27 Department must hire at a 25 percent rate. Currently it's hiring  
28



1 at 12.5 percent. That's nothing. I mean, that is a process that  
2 the State Personnel Board has placed on this Department.

3 SENATOR CRAVEN: Well, if a person applied now and we  
4 were at 25, you mean that they would get turned down because they  
5 had attained 25, even though they were qualified?

6 MS. MOLINA: I'm not sure. That doesn't relate to this  
7 process.

8 SENATOR CRAVEN: Thank you very much, Ms. Molina.

9 CHAIRMAN ROBERTI: Next witness.

10 MR. MOLLINEDO: Mr. Chairman, Members of the Committee,  
11 my name is Manuel Mollinedo. I have been a professional in the  
12 field of recreation and leisure services for the past 20 years.  
13 I am presently Director of Parks and Recreation for the City of  
14 Chula Vista.

15 In addition to my experience, I have a Masters Degree in  
16 Public Administration from the University of Southern California,  
17 and a Masters Degree in Recreation Administration from California  
18 State University at Los Angeles.

19 I am here today representing the Hispanic Recreation and  
20 Leisure Services Association. This organization is a nonprofit  
21 group interested in the equitable delivery of recreation services  
22 to the Hispanic community. The membership is presently comprised  
23 of professionals in the field of recreation at the local, State  
24 and federal levels.

25 As an organization, we are keenly interested in how the  
26 field is progressing with respect to employment, accessibility to  
27 recreation facilities, and legislation impacting services to  
28 Hispanics.





1 HRLSA at the present time is neither in support or nor  
2 in opposition to the appointment of Mr. Henry Agonia as State  
3 Parks Director.

4 We are, however, concerned in the Department's  
5 commitment to affirmative action hiring and of promotion of  
6 Hispanics within the Department.

7 I personally feel that Mr. Agonia has the ability to be  
8 an advocate for positive change in the Parks and Recreation  
9 Department. For this reason, HRLSA feels that if Mr. Agonia  
10 supports efforts to hire minorities and women at parity with the  
11 State population, that this organization would change its neutral  
12 position to one of support.

13 In listening to Mr. Agonia's comments this afternoon  
14 regarding what plans he has for the Department, I was sincerely  
15 hoping that I would hear some statement in positive in support of  
16 affirmative action. I heard no such statement.

17 I feel very strongly that the Department, presently  
18 being under sanction, needs to have minority hiring as a major  
19 priority within that organization.

20 Thank you.

21 CHAIRMAN ROBERTI: Thank you, Mr. Mollinedo.

22 Senator Petris.

23 SENATOR PETRIS: Have you talked this over with him?

24 MR. MOLLINEDO: I spoke with him informally before I  
25 came in here, and I do plan to set up -- I did ask to set up a  
26 meeting with him to speak with him in further detail on this.



1           SENATOR PETRIS: To you knowledge, has any other  
2 organization from the Hispanic community met with him for that  
3 purpose?

4           MR. MOLLINEDO: Yes, I believe that there was a meeting  
5 several days ago. What happened in that meeting I am not aware  
6 of, I mean what actually transpired at that time.

7           SENATOR PETRIS: Has he made any commitment to any of  
8 the groups to your knowledge that he would make his best efforts  
9 in that direction?

10          MR. MOLLINEDO: I have not seen or heard any public  
11 comments to that effect.

12          CHAIRMAN ROBERTI: Mr. Mollinedo, your organization  
13 again is?

14          MR. MOLLINEDO: The Hispanic Recreation and Leisure  
15 Services Association, sir.

16          CHAIRMAN ROBERTI: Senator Craven.

17          SENATOR CRAVEN: Are you the Director in National City?

18          MR. MOLLINEDO: No, City of Chula Vista.

19          SENATOR CRAVEN: Well, I was close; wasn't I?

20          MR. MOLLINEDO: Next door.

21          SENATOR CRAVEN: That's right.

22                I just wanted to ask you as Director in Chula Vista,  
23 what percentage, for example, is Chula Vista's minority  
24 population?

25          MR. MOLLINEDO: At the present time?

26          SENATOR CRAVEN: Yes, sir.

27          MR. MOLLINEDO: I would say probably about ten percent.  
28



1           SENATOR CRAVEN: Is that all?

2           MR. MOLLINEDO: Yes, it is. The City of National City  
3 has a much higher percentage and so does San Ysidro, which is  
4 actually part of the City of San Diego.

5           SENATOR CRAVEN: Yes.

6           So then, it's not difficult for you to attain ten  
7 percent of your hiring as minority people, and you've probably  
8 exceeded it greatly?

9           MR. MOLLINEDO: Yes, not only for Hispanics but also for  
10 Asians. We're probably at parity with the Black population.

11          SENATOR CRAVEN: Very good. Thank you very much, sir.

12          CHAIRMAN ROBERTI: Thank you very much.

13          Any other witnesses in support or neutral?

14          SENATOR ELLIS: I had a question.

15          CHAIRMAN ROBERTI: Senator Ellis.

16          SENATOR ELLIS: I do have a comment.

17          After listening to the testimony, I have to put both of  
18 those people in the oppose column because definitely their  
19 testimony was against Mr. Agonia.

20          SENATOR CRAVEN: You mean the last two?

21          SENATOR ELLIS: Yes, last two.

22          So, on my personal tally sheet here, I'll have to put  
23 you down as opposed to Mr. Agonia.

24          SENATOR CRAVEN: Well, I think Ms. Molina said, if I  
25 recall correctly, that she cannot attribute all of the sins of  
26 the past to Mr. Agonia.

27          Didn't you say that?  
28





1 MS. MOLINA: That's correct.

2 SENATOR CRAVEN: In other words, he's inherited a  
3 situation from which you hope he will extricate himself; right?

4 (Laughter.)

5 CHAIRMAN ROBERTI: Extricate the Department.

6 Senator Petris.

7 Mr. Agonia, we'll wait until the conclusion of all the  
8 witnesses. Take notes and then we'll --

9 SENATOR PETRIS: May I go back to the last witness for a  
10 minute?

11 CHAIRMAN ROBERTI: Mr. Mollinedo, Senator Petris has a  
12 question of you.

13 SENATOR PETRIS: Would you have a seat, please.

14 On the line of questioning I asked you regarding  
15 conversations and possible commitments from Mr. Agonia, let me  
16 take that one step behind that.

17 Have any of your groups met with the Governor on this  
18 question?

19 MR. MOLLINEDO: Not my organization, sir.

20 SENATOR PETRIS: Do you know of any other groups that  
21 have met with him in the community?

22 MR. MOLLINEDO: I've heard that there have been several  
23 groups that have met with the Governor, groups such as MAPA,  
24 LULAC.

25 SENATOR PETRIS: Do you know anything about the outcome?

26 MR. MOLLINEDO: I know that the Governor has expressed  
27 an interest in seeing that affirmative action is carried out  
28 throughout the State system.



1           SENATOR PETRIS: Does he support it with respect to this  
2 Department?

3           MR. MOLLINEDO: I would imagine that he does, sir.

4           SENATOR PETRIS: It seems to me if you're an  
5 organization, you ought to have something more concrete than  
6 that.

7           What I'm thinking is, I don't know what the Governor's  
8 attitude is towards your plan and your recommendation. If the  
9 Governor's opposed, his Nominee can't very well come out and say,  
10 "Well, I'm all for it." That's what I'm driving at.

11          MR. MOLLINEDO: Sir, I don't necessarily know that  
12 Mr. Agonia is opposed to affirmative action. I really haven't  
13 heard a public statement saying that he's in favor of it. I know  
14 he has -- probably does have a plan for trying to solve some of  
15 the problems.

16          SENATOR PETRIS: If he's not opposed and he's not in  
17 favor, he's just like your organization. He's neutral on the  
18 question at hand.

19          MR. MOLLINEDO: We would like to see representation  
20 within the Department at parity with the State.

21          CHAIRMAN ROBERTI: Senator Craven.

22          SENATOR CRAVEN: Just a question. It really hasn't  
23 anything to do with Mr. Agonia, but we've heard from various  
24 witnesses about getting minority people into the parks; not to  
25 the system but to the park properties.

26          How do you do that?

27          MR. MOLLINEDO: Well, for one thing --  
28



1           SENATOR CRAVEN: I thought that going to the park was a  
2 sort of a voluntary thing.

3                           (Laughter.)

4           SENATOR CRAVEN: Let me just tell you, I am a poor  
5 fellow to talk about parks. I've lived in a city that has the  
6 biggest municipal park system in the world, and another one,  
7 another city that has probably the most beautiful, and then my  
8 own city of Oceanside with which you are familiar.

9           I have never been to a park in my life.

10                          (Laughter.)

11          SENATOR CRAVEN: And I have no reason to go there.  
12 Absolutely no reason at all, because, you know, I'm way beyond  
13 the age of playing softball, and certainly I'm too big for the  
14 swings.

15                          (Laughter.)

16          SENATOR CRAVEN: So, what are you going to do for me as  
17 Bill Dominguez to get me to go to the park?

18          MR. MOLLINEDO: Well, I think one of the things that the  
19 Department ought to look at, and I think Mr. Agonia stressed  
20 earlier in his testimony, was the fact that urban parks are  
21 something that have to become a priority within the State Parks  
22 system.

23          I know the Santa Monica Mountain concept, where the  
24 National Parks Service and the State Parks system got together  
25 and built a park adjacent to where 7 million people live, I  
26 think, is a great example of that.





1 I think down at Carlsbad State Beach, the possibilities  
2 of expanding that existing State Park into what is now the old  
3 Highway 101 would provide a tremendous opportunity for minorities  
4 living within urban areas to have greater access to these  
5 facilities.

6 It's very difficult for minorities living down in the  
7 Los Angeles area to drive up all the way up to the Sinkyone State  
8 Park to participate up there. It's very costly; you have to have  
9 a great deal of camping equipment.

10 I think part of the problem right now with the State  
11 Parks system is that the majority of Parks are not where the  
12 majority of the population is, and I think that in itself  
13 detracts from people using State Parks.

14 SENATOR CRAVEN: Well, what you say is very, very true.  
15 We do need urban parks. I'm not against that at all.

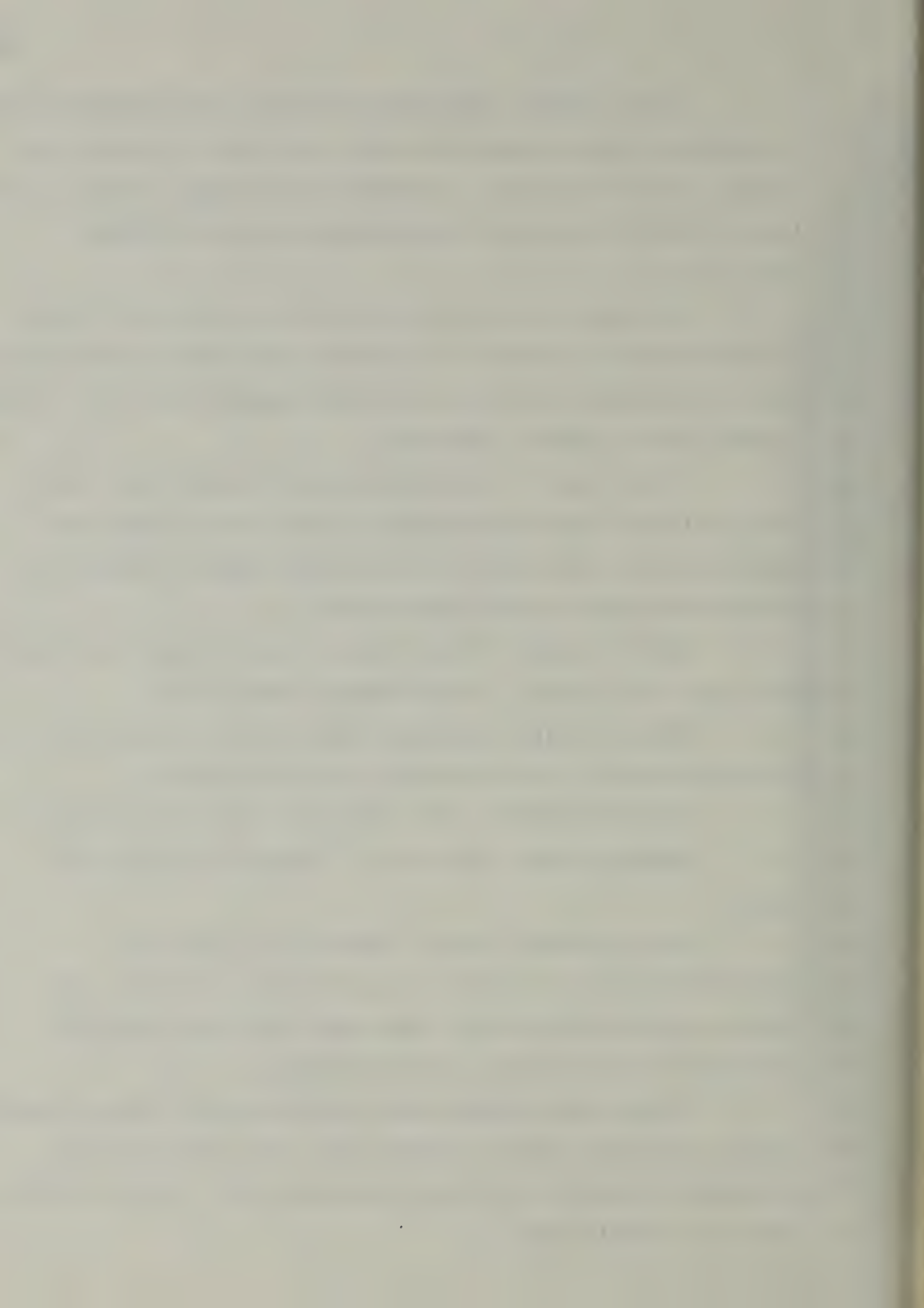
16 What I was just trying to figure out is, how do you  
17 motivate somebody to go to the park that is available?

18 CHAIRMAN ROBERTI: You bring the parks to the people.

19 SENATOR CRAVEN: Is that it? Bring the park to the  
20 people.

21 MR. MOLLINEDO: Plus, I think there's also an  
22 educational process. I think young children at an early age  
23 should be encouraged to, one, know what State Parks are, and  
24 encouraged to learn how to use State Parks.

25 I know when I worked with the Los Angeles Unified School  
26 District, we had a series of field trips where we would take  
27 youngsters to some of the local park facilities. We were taking  
28 them up to Pyramid Lake.



1           You've got to be able to take them out of their  
2 environment in the city, show them where these State Parks are,  
3 and allow them to have a real outdoor experience that's going to  
4 be positive. In this way, when they grow up and they have the  
5 mobility, they can then start participating on their own.

6           SENATOR CRAVEN: Very well articulated.

7           Thank you very much, sir.

8           CHAIRMAN ROBERTI: Thank you again.

9           There being no further witnesses in support or neutral  
10 witnesses, we're going to break for ten minutes, and then we'll  
11 take opposition.

12           Is there opposition?

13           There's no opposition, so we can dispose of this  
14 question.

15           Senator Mello wants to put the measure over to the 23rd  
16 of March. Why don't I take that as a motion.

17           Senator Ellis on the motion.

18           SENATOR ELLIS: On the motion.

19           Mr. Agonia's been there, what, pretty close to a year  
20 now.

21           I only have three State Parks in my area. And he has  
22 been in my office at least a dozen times, maybe more, because  
23 when I have a problem the first thing I do is call him up and get  
24 him over here.

25           I will say that being on this Committee and being in the  
26 same party as the administration hasn't done me a doggone bit of  
27 good with him.



(Laughter.)

SENATOR ELLIS: But at least he comes over and he listens. And I try to explain the problems. And he tells me he's working on them, and I believe him.

SENATOR PETRIS: Is that why you're retiring?

(Laughter.)

SENATOR ELLIS: That's why I retired? No, not at all.

So, you know, I can't vote for putting this thing over because when we have problems, we go to those people immediately and sort it out, or try to.

And I know Senator Mello has some problems in his area and wants to get them straightened out. I don't think the fact that Mr. Agonia waited until today to come visit is his fault.

SENATOR MELLO: If he's been to your office 12 times, he's walked by my office 12 times, I can tell you that.

SENATOR ELLIS: But you didn't ask him in.

CHAIRMAN ROBERTI: Senator Mello's evading the motion.

There's a motion before us. We'll vote on the motion, whatever this motion comes out, and then we'll break and hear from Mr. Agonia. We'll give him time, about ten minutes, to collect his thoughts to be able to make his final statement.

So, Senator Mello's motion is before us to move a continuance until the 23rd of March for vote only.

Secretary will call the roll.

SECRETARY WEBB: Senator Ellis.

SENATOR ELLIS: No.

SECRETARY WEBB: Senator Mello.





1 SENATOR MELLO: Aye.

2 SECRETARY WEBB: Senator Petris.

3 SENATOR PETRIS: Aye.

4 SECRETARY WEBB: Senator Craven.

5 SENATOR CRAVEN: No.

6 SECRETARY WEBB: Senator Roberti.

7 CHAIRMAN ROBERTI: Aye.

8 The vote is three to two for vote only.

9 That was not a vote on Mr. Agonia. It was for vote only  
10 to move it until the 23rd of March.

11 We will now break for ten minutes, then we'll hear from  
12 Mr. Agonia.

13 (Thereupon a brief recess was taken.)

14 CHAIRMAN ROBERTI: The Committee will come to order.

15 Mr. Agonia, you have time for your conclusion.

16 MR. AGONIA: As a concluding statement, I'd just like to  
17 make one comment, and that's in regards to -- I guess there was  
18 no opposition, so I feel kind of -- I have some gratitude in  
19 regards to that.

20 I think that that does show that the OHV issues that has  
21 been discussed is an issue that I think I have been addressing,  
22 and maybe that is why the opposition did not show up in person  
23 basically to oppose that. So, hopefully I have been accessible  
24 to them and am now meeting their concerns in that area.

25 The other issue I'd like to address is the issue in  
26 regards to MAPA and the Leisure Services group in regards to my  
27 affirmative action commitment.  
28



1 Under one of my action items, I listed the investment of  
2 our employees. If I went further into that action item, you  
3 would have seen that one of the subtopics would have been parity  
4 in regards to job hiring. So, that is one of the areas that I am  
5 committed to, and that's the parity of the employees that work  
6 within the Department of Parks and Recreation. So I am committed  
7 to that.

8 So if that answers their question, then hopefully they  
9 will support me, and their neutral position can be put to an  
10 affirmative vote.

11 The other is that I guess you've heard from those who do  
12 support and from myself that I am committed. I am committed to  
13 Parks and Recreation, and I'm committed to doing a good job.

14 Hopefully you'll give me that opportunity.

15 CHAIRMAN ROBERTI: Thank you, Mr. Agonia.

16 Any questions? Senator Mello.

17 SENATOR MELLO: This is a new item that we didn't  
18 discuss earlier, and that's the question of your commitment  
19 toward parity.

20 I guess parity could be construed to mean a quota.  
21 Based on the charts there, it means bringing the minority hiring  
22 up to parity, which means it reflects the population of the  
23 state.

24 Have you discussed this with the administration about  
25 your intent to be aggressive in meeting these goals?

26 MR. AGONIA: Yes, I have discussed this with the  
27 administration.  
28



1 I think one of the questions that was asked of me at the  
2 appointment by the Governor was my position on parity, parity in  
3 the work force, and parity in the work force with the state  
4 population.

5 My answer to that was that I am committed to that. I  
6 think the Governor is also committed to parity, too.

7 SENATOR MELLO: Well, I hope that's true.

8 The only that I could say as far as what I have seen,  
9 mainly on this one issue, and we haven't done it here in the  
10 Senate as the Assembly has put it into all the bond issues, where  
11 they put mandatorily that the money from the sale of bonds, 15  
12 percent would go to minority businesses, and I think 5 percent  
13 would go to women.

14 Am I correct?

15 SENATOR CRAVEN: Yes, sir.

16 SENATOR MELLO: Now, I think it's a matter of record.  
17 The Governor has opposed that. That's why we were so late in  
18 getting the Super Collider and other bond issues out. They  
19 finally reached some agreement in the prison bonds; they worked  
20 out a compromise with Senator Presley and the percentages were 13  
21 and 3.

22 The way I read that, I think he's probably less -- and  
23 I'm saying this based on his own record of lacking enthusiastic  
24 support for minority hiring and -- no, not so much hiring. Let  
25 me qualify that -- dealing with minority businesses, which is the  
26 same thing because minority businesses will probably hire more  
27 minorities than nonminorities will.





1 I just hope that your commitment and his commitment will  
2 go hand-in-hand, because this is a problem around the state.  
3 Blacks, Asians and Hispanics especially are under-represented.

4 MR. AGONIA: Senator Mello, the Governor at the last  
5 quarterly or the last Department head meeting expressed concern  
6 in regards to parity. Approximately a half an hour of that  
7 meeting was -- basically the issue was parity and looking at ways  
8 that we can have job parity within State employment.

9 I'm sure that the Governor is committed to parity.

10 SENATOR MELLO: Thank you.

11 CHAIRMAN ROBERTI: Thank you very much, Mr. Agonia.

12 MR. AGONIA: Thank you.

13 SENATOR MELLO: Mr. Chairman, can I just mention --

14 CHAIRMAN ROBERTI: Senator Mello.

15 SENATOR MELLO: -- on this case here.

16 I just want to go back to the last motion that was made  
17 and voice a little frustration I have.

18 Usually when a Member asks for a matter to be put over,  
19 it's very seldom that it's put to a vote. I don't recall ever  
20 where it was a split vote. It's usually a courtesy that Members  
21 give to each other, and I've given that courtesy to many other  
22 Members.

23 I just want to point out to my two colleagues, Senator  
24 Ellis and Craven, last week I was the third vote to help Mr. Ben  
25 Davidian get his confirmation out of Rules Committee. This week,  
26 just a simple question of asking to put a matter over, not to  
27 endanger the person's chance for confirmation, but suddenly this  
28 met with opposition from my two colleagues.



1 I would hope that we could be more courteous as far as  
2 extending to each Member that may have a problem in their own  
3 district the prerogative of going and pursuing it, and come back  
4 and being able to fulfill that information without having this  
5 happen again.

6 SENATOR CRAVEN: Well, speaking for Senator Ellis and  
7 myself, we at no time were attempting to be discourteous. That  
8 would be the furthest thing from our minds.

9 I think we were motivated to take the steps that we did  
10 simply because of the litany or agenda that you laid out as a  
11 sort of Sword of Damocles. At least that was my feeling. I  
12 would have to say that that's one of the reasons that I took the  
13 step that I did.

14 I can't speak for Senator Ellis on that.

15 But certainly it wasn't to be discourteous at all,  
16 Henry. You should not attribute that to me.

17 I think I ordinarily have a reputation of being a rather  
18 courteous fellow.

19 SENATOR MELLO: I was a little bit surprised at not  
20 allowing a Member to hold something over for their own --

21 SENATOR CRAVEN: But that's --

22 SENATOR MELLO: I just want to state my point.

23 SENATOR CRAVEN: I understand, and certainly you're  
24 entitled to that.

25 I probably cling to that old Pillsbury slogan:  
26 Eventually, why not now?

27 CHAIRMAN ROBERTI: I don't remember that one.  
28



1 (Laughter.)

2 SENATOR CRAVEN: I'm afraid you're not old enough to  
3 remember that, Mr. President.

4 I hate to say it, but it was right after the Boer Wars,  
5 as I recall.

6 (Laughter.)

7 CHAIRMAN ROBERTI: Mr. Agonia will be taken up for vote  
8 only on the 23rd of March.

9 Mr. Robert Rivinius has indicated he has a plane to  
10 catch in 45 minutes, or he has to leave for a plane in 45  
11 minutes. We'll take him up now.

12 Member of the Board of Governors, California Community  
13 College system.

14 We'll ask you the same question we ask all the  
15 Governor's Appointees: why you feel you're qualified to assume  
16 this position.

17 MR. RIVINIUS: Yes, thank you.

18 Well, first of all, I'm a product of the system. I  
19 attended community college before going on for a Bachelors  
20 Degree. I graduated from San Joaquin Delta College in Stockton.

21 Second, I have had what I think is a successful business  
22 career, and I do understand and have a sound knowledge of fiscal  
23 administration and program development.

24 Third, I feel that the community college system in  
25 California has given residents tremendous opportunities to both  
26 begin and continue their higher education, and I support the  
27 continued growth and success of the system which we've enjoyed.





1           We have over a million students at 106 campuses, and I  
2 venture that a majority of those would not be able to be  
3 continuing their education if it were not for the community  
4 college system. We provide three opportunities -- and I have  
5 served almost a year now, so I have gotten a feel for the  
6 community college system and believe in it even more firmly --  
7 provide three opportunity areas: those preparing to transfer to  
8 four-year schools; those seeking vocational training; and those  
9 seeking continuing education.

10           I do feel that my background enables me to make  
11 responsible governing decisions which will enhance the community  
12 college system.

13           CHAIRMAN ROBERTI: Thank you, Mr. Rivinius.

14           Is there any opposition in the audience?

15           SENATOR CRAVEN: Move Mr. Rivinius.

16           CHAIRMAN ROBERTI: Senator Craven moves Mr. Robert  
17 Rivinius do pass and to the Floor.

18           Are there any questions?

19           Well, I guess the big issue facing the community  
20 colleges is, and I'll ask you the whole question, whether there  
21 should be more centralization under the Board of Governors either  
22 under the legislation that is currently pending or other  
23 proposals? What's your position?

24           MR. RIVINIUS: I believe there should be some more  
25 centralization. I think we're in the situation where we have  
26 responsibility without quite as much authority as we should have,  
27 and I think the other systems, the other two systems in the  
28



1 state, the governance boards do have more decision making  
2 capabilities. And I would like to see us move in that direction.

3 CHAIRMAN ROBERTI: Any other questions? Senator Petris.

4 SENATOR PETRIS: I've been concerned about the transfer  
5 problem. The statistics we heard last year were very  
6 discouraging on the percentage of community college students that  
7 go on to a four-year school.

8 The Joint Committee that studied the whole problem  
9 recommended that the three branches get together and plan the  
10 curriculum together, each having regard for the mission of the  
11 other, which to me, as a Member of that Committee, sounded like a  
12 good idea. It's now in Assemblyman Vasconcellos' bill, 1725.

13 Have you studied this problem of how we can improve on  
14 the number of students that do the transferring, and better  
15 coordinating in the curricula and so forth?

16 MR. RIVINIUS: I can't say that I've studied it, but I  
17 do realize that it's a problem and I, too, was unhappy with the  
18 statistics that had come forward. And I certainly support  
19 beefing that up, and there is an awful lot of staff work going on  
20 in that area which I support.

21 SENATOR PETRIS: Do you see any problem with  
22 Vasconcellos' recommendation to have the three branches  
23 coordinate their planning on the curriculum, or would you rather  
24 have the community college just do its own curriculum planning  
25 without any --

26 MR. RIVINIUS: No, no.  
27  
28



1 Since so many of our students do transfer to one of the  
2 two other systems, I think it's essential that we do coordinated  
3 planning.

4 SENATOR PETRIS: That may be part of the weakness in the  
5 past?

6 MR. RIVINIUS: I think it could be, yes. And I do think  
7 -- I think not only should -- it should be beefed up, I think it  
8 will be.

9 SENATOR PETRIS: Thank you.

10 CHAIRMAN ROBERTI: Senator Craven has moved Mr.  
11 Rivinius' confirmation be recommended to the Floor.

12 Secretary will call the roll.

13 SECRETARY WEBB: Senator Ellis.

14 SENATOR ELLIS: Aye.

15 SECRETARY WEBB: Senator Mello.

16 SENATOR MELLO: Aye.

17 SECRETARY WEBB: Senator Petris.

18 SENATOR PETRIS: Aye.

19 SECRETARY WEBB: Senator Craven.

20 SENATOR CRAVEN: Aye.

21 SECRETARY WEBB: Senator Roberti.

22 CHAIRMAN ROBERTI: Aye.

23 The vote is five to nothing; confirmation is recommended  
24 to the Floor.

25 MR. RIVINIUS: Thank you.

26 CHAIRMAN ROBERTI: Howard Gould, the Superintendent of  
27 Banks.  
28





1 Mr. Gould, we'll ask you the same question we ask the  
2 other Governor's Appointees: why do you feel you're qualified to  
3 assume this position?

4 MR. GOULD: Thank you, Chairman Roberti and Members.

5 I appreciate this opportunity to explain to you my  
6 qualifications.

7 I think my background allows me to bring to the  
8 Superintendent's position a broad understanding and skill in the  
9 banking industry as well as a valuable perspective on the broader  
10 financial services sector.

11 My experience includes one-half of my working career  
12 directly in the banking business, holding various lending,  
13 management and staff positions. I spent two years as well in the  
14 Banking Department in a former position as Deputy Superintendent,  
15 which was my first appointed position in the Deukmejian  
16 administration. Immediately after that I served two years as  
17 deputy Secretary of the Business, Transportation and Housing  
18 Agency, where I was responsible for coordinating the activities  
19 that relate to all our financial services' regulatory  
20 departments.

21 Also in my background I've served time as a legislative  
22 staff consultant which gives me a broad understanding of the  
23 public policy making process.

24 My educational background includes a Bachelors degree  
25 and a Masters Degree in Finance, and I hope that you find my  
26 qualifications adequate.

27 CHAIRMAN ROBERTI: Thank you very much, Mr. Gould.  
28



1 Any questions? Senator Mello.

2 SENATOR MELLO: Mr. Chairman, I'll like to ask a couple  
3 questions.

4 I know a lot of savings and loans are in deep trouble.  
5 That's out of your category, but the question I'm leading up to  
6 is: What is the status of some of the banks we have in this  
7 state that are approaching negative equity?

8 MR. GOULD: We do have a number of problem institutions  
9 in this state. The interesting fact in that is that we seem to  
10 have a rolling number of problems very similar in magnitude.

11 The problem institutions that we deal with represent  
12 only about five percent of the assets in the banking industry  
13 statewide, the State chartered banking industry in California.  
14 So, it's not a problem that could have any devastating impact on  
15 the industry.

16 The number of closures that we've had in the last couple  
17 of years, both State and national banks, has been relatively  
18 flat. We anticipate about the same number of closures in the  
19 years to come, but those again are not problematic. They do  
20 represent a declining proportion of failures nationwide.

21 In other words, as we look across the nation,  
22 California's proportion of closures is diminishing, so I don't  
23 think we have any major concern.

24 The Department is very capable of dealing with the  
25 problem situations we have had. And the way I like to look at  
26 failures is, rather than dwell on the failures we have had, is to  
27 look at the successes we've had and the failures that we've  
28



1 avoided, which a greater number than the ultimate failures we've  
2 had.

3 And in most of our situations, we have been able to find  
4 a purchaser for the bank that was closed. Very seldom do we have  
5 a situation where depositors have to be paid off as opposed to  
6 having their banking business continue as it was.

7 SENATOR MELLO: Who usually moves first on these banks  
8 that are facing problems? Is it the Federal Reserve Board or  
9 FDIC, or is it your Department?

10 MR. GOULD: Excuse me, who does what first?

11 SENATOR MELLO: Well I mean, we had one in Carmel a few  
12 years ago --

13 MR. GOULD: Right.

14 SENATOR MELLO: I know your office was involved with the  
15 negotiation that brought in another bank --

16 MR. GOULD: That's right.

17 SENATOR MELLO: -- and bought them out.

18 MR. GOULD: That's right.

19 SENATOR MELLO: Who triggers the situation?

20 MR. GOULD: The primary rate layer.

21 In the case of a State chartered bank, that's my office.  
22 We're the regulator of about 280 State chartered banks in  
23 California.

24 The primary regulator for national banks is the Office  
25 of the Controller of the Currency. If there is a failure problem  
26 that is occurring there and an ultimate failure, that is handled  
27 by the Controller of the Currency, which has a regional office in  
28 San Francisco.





1           SENATOR MELLO: When you said five percent of the total  
2 assets, that's grouped in with all small and large banks, but are  
3 there a number of banks that are in jeopardy as far as going  
4 under based on their own individual equity?

5           MR. GOULD: As I said, we're -- we can project in the  
6 coming year a similar amount of failures to what we've had in the  
7 last couple of years, and that's four or five.

8           SENATOR MELLO: Four or five statewide?

9           MR. GOULD: Yes. I'm not going to say that that's  
10 necessarily going to happen. We obviously see the problems  
11 coming and we try to address them early.

12           But at the outside, you know, I think that we're not  
13 going to have a year in '88 that's any worse than any of the  
14 prior years.

15           SENATOR MELLO: Do you regulate the foreign banks also  
16 that come in?

17           MR. GOULD: The vast majority of foreign banking  
18 agencies are regulated by our Department.

19           SENATOR MELLO: It seems like every once in a while when  
20 you look at a list, a lot of the major banks are owned by foreign  
21 interests that have bought local banks. And then I guess in  
22 1990-91, we'll have this interstate banking --

23           MR. GOULD: That's right.

24           SENATOR MELLO: -- reciprocal agreement that will bring  
25 in probably a lot more banks from other states in here.

26           MR. GOULD: That's right.

27

28



1           We've had foreign-owned banks in California for decades.  
2 Since the late 1800s we've had foreign-owned banks from other  
3 countries operating in California.

4           The Legislature last year enacted our interstate banking  
5 legislation which addresses banks from other states coming into  
6 California. Right now we're operating under what is called the  
7 regional provision of that act which allows banks from the  
8 Western states, if there's reciprocity between our two states, to  
9 operate in California, and in 1991 that will open up on a  
10 nationwide basis, also a reciprocal treatment.

11          SENATOR MELLO: We see a lot of banks now. They're just  
12 like gas stations used to be. I think we have an oversupply of  
13 banks right now in our area, and I'm just speaking for my own  
14 area. But the advent of more, which is something which we  
15 supported or I supported, but I just wonder what it's going to do  
16 to established banks by getting more banks into California?

17          MR. GOULD: Well, our chartering activity is relatively  
18 low right now. There aren't a lot of new banks being formed.  
19 There's a lot of merger activity taking place.

20          It's purely a function of the marketplace and of the  
21 demand in local communities. We have seen a lot of mergers and  
22 consolidations, however.

23          SENATOR MELLO: Thank you.

24          SENATOR CRAVEN: Move Mr. Gould.

25          CHAIRMAN ROBERTI: Senator Craven moves Mr. Gould's  
26 confirmation be passed to the Floor.

27          Is there opposition?  
28



1 SENATOR PETRIS: May I ask a question.

2 CHAIRMAN ROBERTI: Senator Petris.

3 SENATOR PETRIS: We had a good meeting yesterday, but  
4 there were two or three areas I forgot to cover.

5 MR. GOULD: Okay.

6 SENATOR PETRIS: One is the number of foreign banks in  
7 California, to follow up on some of Senator Mello's questions. I  
8 have a chart here from the last report from your Department  
9 showing the 25 largest banks in the world.

10 MR. GOULD: Right.

11 SENATOR PETRIS: I'm sure you're --

12 MR. GOULD: In the world or in California?

13 SENATOR PETRIS: Well, this one says in the world up  
14 here. There's another one that says California.

15 MR. GOULD: Okay.

16 SENATOR PETRIS: Starting in the world, 20 years ago  
17 there were 11 U.S. banks, and then 15 years ago it drops down to  
18 6 or 7, and today there's only one. A lot of those major foreign  
19 banks are doing business in California.

20 Is that a reflection of the shrinking economy of the  
21 U.S., or rising fiscal power elsewhere? Why is this happening?

22 MR. GOULD: I would suggest that it's a reflection of  
23 the very attractive California marketplace that we do business  
24 in. I think we're the envy of bankers from all over the country.  
25 We know that. It's part of the motivation for New York wanting  
26 to be here, and the California marketplace is also attractive to  
27 bankers from throughout the world.  
28





1           SENATOR PETRIS: The point I'm thinking of is why they  
2 have out-paced American banks in general and California in  
3 particular?

4           Is that inevitable with the changes in our economy? Is  
5 there something wrong with our bankers' management ability?

6           You know, for example, on the first list of 20 years  
7 ago, the first one, biggest in the whole world was Bank of  
8 America. Well, we all know they've had a lot of problems.

9           MR. GOULD: Right.

10          SENATOR PETRIS: But right behind them were other  
11 American banks. And now they're no where to be seen except for  
12 City Bank. It's the only one that shows up out of 25.

13          So, I am concerned about all these foreign banks coming  
14 in here, especially from countries that don't give us reciprocal  
15 rights. I understand in some of them we can't go in there with a  
16 bank to do whatever they can do here.

17          But beyond that, why aren't our banks still up there  
18 competing, the U.S.-owned banks, including the California banks  
19 that used to be up high?

20          MR. GOULD: Well, I think -- I don't know that any of  
21 our California banks have diminished their performance. They've  
22 just been out-paced by some of the banks around the world, so I  
23 wouldn't look at it as a -- in the vein that our California banks  
24 have declined while they have been surpassed by the other world  
25 banks. It's more a situation --

26          SENATOR PETRIS: Isn't that the same thing? If  
27 everybody passes you up in the race, and you're running just as  
28 fast as you were before, you ain't going to win the race.



1 MR. GOULD: I just don't want to leave a perception that  
2 I view that our California banks have performed in a declining  
3 sort of a situation.

4 SENATOR PETRIS: Just that others have done better, I  
5 guess?

6 MR. GOULD: The others --

7 SENATOR PETRIS: Maybe it's a reflection of too many  
8 other things for us to go into here.

9 SENATOR CRAVEN: You know, Nick, as you mentioned that I  
10 couldn't help but think of the automobile industry. If you went  
11 back 25 years ago, you know, you'd find G.M. up there. But look  
12 at it now. You've got more foreign automobile operators in here  
13 than domestic.

14 SENATOR PETRIS: That's a good point. That's why I'm  
15 asking if it's a reflection of our economy overall?

16 MR. GOULD: Well, I mean, there are certain things, and  
17 these are perhaps more national banking issues than they were  
18 California banking issues, because in California we have provided  
19 our banks with certain expanded powers. The Legislature has done  
20 that.

21 I think, though, as compared to some of the  
22 international banking operations, the argument could be made that  
23 our banks are not quite as competitive as far as products and  
24 services that they can offer. That perhaps may be part of the  
25 reason.

26 SENATOR PETRIS: In California, has our failure to bring  
27 in the national interstate banking sooner had an impact? In  
28



1 other words, some people say, "Well, you've got all these foreign  
2 banks coming in here, and they do whatever the local banks can  
3 do."

4 But a New York bank or an Arizona bank isn't allowed to  
5 do that yet.

6 MR. GOULD: Right.

7 SENATOR PETRIS: Is that part of the problem, or is that  
8 a different issue?

9 MR. GOULD: That's actually a different issue.

10 I think that you can look at the interstate banking  
11 debate as one debate that can be separated, although I understand  
12 that there will be attempts in this Legislature to combine it  
13 with the debate in the international banking context.

14 As I mentioned earlier, California and, indeed, the  
15 United States has invited and encouraged foreign investment in  
16 California. We have allowed foreign banks to participate here  
17 for decades. And it's just recently that we have changed some  
18 outdated United States domestic law that had to do with  
19 interstate banking, rather than international banking.

20 I try to separate in my mind, my own mind to some  
21 degree, those two debates: an international banking debate  
22 versus an interstate banking debate.

23 But yes, indeed, there is somewhat of a different  
24 treatment there.

25 SENATOR PETRIS: I noticed a lot of check cashing  
26 services are springing up all over the place.

27

28







1 Is that causing or drawing any interest or attention on  
2 your part at the Department?

3 MR. GOULD: Well, it draws some attention on my part  
4 because oftentimes combined with the check cashing operation is a  
5 money order operation, and I regulate money order issuers.

6 As a matter of fact, we recently had a failure of a  
7 money order company and successfully sold that money order  
8 company. Much of the operation of that company was in check  
9 cashing as well.

10 Check cashing in the past was regulated by the  
11 Department of Corporations. Several years ago the Legislature  
12 did away with that regulatory scheme. The check cashers right  
13 now, as I understand it, are relatively unregulated.

14 SENATOR PETRIS: There's a bill in that provides some  
15 kind of regulation by Assemblyman Chacon.

16 MR. GOULD: Yes, I understand that.

17 SENATOR PETRIS: What disturbs me is, I notice at my  
18 bank there's a sign at the teller's spot there that informs  
19 nondepositors that the cashing of a check will be subject to a \$5  
20 service fee. So, you go to a bank where you're not a depositor  
21 and you pay; you go to a check cashing service as you pay. But  
22 there are a lot of people who can't maintain a checking account.  
23 It costs them too much.

24 That's why I bring it up. Do you think that we ought to  
25 restore some kind of regulatory system under your Department?

26 MR. GOULD: To check cashers?

27 SENATOR PETRIS: Yes, check cashers.  
28



1 MR. GOULD: As I understand that bill, I guess the part  
2 of it that would address your concern is limitation on the fee  
3 that could be charged for check cashing.

4 Actually, based on some research that our Department did  
5 several years ago when I was with it earlier, we found that it is  
6 more expensive to use a check casher than it is to maintain a  
7 deposit account in some situations.

8 So, although I haven't seen the bill, we haven't devised  
9 a position on it, I don't know exactly how we might come to the  
10 question of placing a cap --

11 SENATOR PETRIS: What do they ordinarily charge?

12 MR. GOULD: As I understand it, about a cent and a half  
13 is average for check cashers, but there's a wide range of fees.

14 The one I have most experience with was the failure that  
15 we dealt with. They charged a percent and a quarter, and the  
16 company that purchased them charged a percent and a half. These  
17 people did a very, very large proportion of the check cashing  
18 business in Los Angeles County.

19 So, I would say that's probably a pretty good  
20 reflection.

21 SENATOR PETRIS: Did they deal mostly with wage earners  
22 cashing their paychecks?

23 MR. GOULD: In this situation it was welfare recipients,  
24 I think, principally. This operation cashed benefit checks, at  
25 the same time it distributed food stamps, and the third problem  
26 with their operation was to sell money orders for the use of  
27 paying rents, and utilities, and those sorts of things.



1           SENATOR PETRIS: Thank you.

2           CHAIRMAN ROBERTI: One question I want to ask of you,  
3 and you're the first one I've asked this of so it's not directed  
4 at you personally.

5           There are a number of bills trying to change State  
6 government's revolving door policy where someone can leave State  
7 service and go into the industry which he's regulating.

8           What's your position on those bills?

9           I wouldn't want to hold you to a position on what your  
10 own personal prospects are.

11                               (Laughter.)

12          MR. GOULD: I have none at this time.

13          CHAIRMAN ROBERTI: You'll be Superintendent for a while,  
14 so what's your position on this?

15          MR. GOULD: Well, my position would be that I would  
16 abide by whatever the law is.

17          As I understand it right now, there's no prohibition  
18 against going back to the industry.

19          I'm not familiar with these bills. I have a general  
20 understanding that there are suggestions to change the policy,  
21 and I would abide by whatever the policy were to be.

22          CHAIRMAN ROBERTI: What's your position on changing the  
23 revolving door policy?

24          MR. GOULD: Well, I imagine there are a multitude of  
25 ways to change it. I'm not familiar with the specific areas that  
26 you have in mind.

27

28





1 I would envision that some people would suggest that  
2 there be a period of time you wait before you go into the  
3 industry. I don't know what the specifics are in the  
4 legislation. I'm sorry.

5 CHAIRMAN ROBERTI: Any further questions?

6 There is a motion by Senator Craven. Secretary will  
7 call the roll.

8 SECRETARY WEBB: Senator Ellis.

9 SENATOR ELLIS: Aye.

10 SECRETARY WEBB: Senator Mello.

11 SENATOR MELLO: Aye.

12 SECRETARY WEBB: Senator Petris.

13 SENATOR PETRIS: Aye.

14 SECRETARY WEBB: Senator Craven.

15 SENATOR CRAVEN: Aye.

16 SECRETARY WEBB: Senator Roberti.

17 CHAIRMAN ROBERTI: Aye.

18 The vote is five to nothing; confirmation is recommended  
19 to the Floor.

20 MR. GOULD: Thank you very much.

21 CHAIRMAN ROBERTI: Next is Mr. Talmadge R. Jones,  
22 Director of the Department of Fair Employment and Housing.

23 Unless there's a misprint, Mr. Jones, you're a rare  
24 breed. You're a Democratic Appointee.

25 (Laughter.)

26 MR. JONES: I don't know if that's still true.  
27  
28



1           Senator Roberti and Members of the Committee, it's my  
2 pleasure to be here this afternoon.

3           I want to begin by thanking your gracious staff, Nancy  
4 Michel and the others, for keeping us, we Appointees out here,  
5 constantly informed as to our status. As you know, being an  
6 Appointee isn't always an easy job. You're always concerned  
7 about opposition to your appointment.

8           I understand for the moment that at least an hour ago,  
9 there was no opposition in my file.

10          CHAIRMAN ROBERTI: Things change around here.

11          MR. JONES: Things change.

12                       (Laughter.)

13          MR. JONES: So, without an opposition, I'm going to make  
14 my remarks particularly brief.

15          I think it was Socrates, wasn't it, that went around  
16 giving a lot of unwelcome advice and they poisoned him.

17          CHAIRMAN ROBERTI: Now you've got Senator Petris' vote.

18                       (Laughter.)

19          CHAIRMAN ROBERTI: If you quote Cicero you get mine.

20                       (Laughter.)

21          MR. JONES: I'm not through yet.

22          SENATOR CRAVEN: If you quote Saint Patrick, you've got  
23 mine.

24                       (Laughter.)

25          MR. JONES: My Department protects all groups, so I've  
26 got to be very careful.

27

28



1           On a personal note, this is my 21st year of public  
2 Service. I spent 18 of those years as an attorney, a public  
3 attorney with the California Attorney General's Office under both  
4 Democratic and Republic Attorneys General.

5           For the previous two years to this appointment, I served  
6 as the Department of Personnel Administration's Chief Counsel,  
7 doing principally labor relations work. And now, of course, I  
8 have the controversial job of making all of our state's many  
9 ethnic groups love one another. That's a challenge for me.

10          I welcome the job because I've been involved in civil  
11 rights probably since the early '70s, during those tumultuous  
12 times when, in the civil service system at least, we were trying  
13 to assimilate a lot of groups that we were talking about today in  
14 Parks and Recreation Department of Forestry, and some of the  
15 others.

16          We have a ways to go but I'm proud to say, even under  
17 this Republican Governor, we have made tremendous strides. And I  
18 have to echo what our Parks and Recreation Appointee said, and  
19 that is that in the same meeting that he attended, the Governor  
20 spent 25 percent of that meeting with directors such as myself,  
21 talking about affirmative action; that it starts at the top. It  
22 has to start at the top to reflect consequences at the bottom  
23 where the appointment decisions are made.

24          So, I feel proud to serve a Governor like that, and I  
25 feel proud to serve a great state that we have.

26          I think we talked about our beautiful state today, and I  
27 think one of the things we cannot forget over the next 20 years  
28





1 is that California's going to be a lot different 20 years from  
2 now than it is presently in terms of our ethnic minorities. And  
3 I think the beauty of California is not only in our wonderful  
4 wild lands and our parks, but in the beauty of our people. And  
5 we have to be sure that we bring them into what I like to call  
6 the California tapestry, that over the next 20 years we build a  
7 beautiful state of people as well as machines and build up our  
8 State park system.

9           You'll be proud to know at Fair Employment and Housing,  
10 since I've been there in the last 10 months, I am very pleased by  
11 what I inherited. Our Department is probably the strongest civil  
12 rights enforcement agency in the United States. We're not the  
13 largest, but we're the most effective. The only one that's  
14 larger is the national EEOC, the federal EEOC.

15           We are presently grinding out more cases, obtaining more  
16 jobs for people, getting people new jobs that were denied to them  
17 on the basis of handicap, or age, or one of the other bases, than  
18 anybody. And we're getting better at it. So I'm proud of that.

19           My philosophy's basically, having been an attorney and  
20 adjudicated many civil rights cases, is one of conciliation and  
21 compromise and detente, if you will. I find that bringing ethnic  
22 minorities and disabled groups and older Americans, and all these  
23 groups into the melting pot takes more than just litigation and  
24 aggravation. You have to make the business community believe  
25 that good civil rights is good business. I think our Governor  
26 believes that. I certainly believe that as a personal  
27 philosophy, and I'm committed to that.



1           My theme is basically prevention through partnership.  
2 I've brought a lot of -- not only me but the previous director --  
3 have brought a lot of business groups as well as minority groups,  
4 and the many groups that we deal with, the same groups that  
5 appear before you, to give us input and ideas on how to make  
6 civil rights work without confrontation, without litigation. And  
7 I think we're well on our way.

8           I think the good Lord gave us two ears and one mouth so  
9 we'd spend more time listening than speaking, and so I've been  
10 doing a lot of listening. I don't have all the answers.

11           But I commit to you if I'm approved my full abilities in  
12 running this Department while I'm there, and making my employees  
13 feel good about their jobs, and having a rewarding career, and  
14 making DFEH a good place to work.

15           With that, I'll be happy to entertain any questions.

16           CHAIRMAN ROBERTI: Senator Petris.

17           SENATOR PETRIS: That's very inspiring.

18           As a fellow future minority in the next four or five  
19 years, I'm delighted with your comments.

20           There are a couple of areas, though, I need to ask you  
21 about. There was a law clinic at Bolt manned by students,  
22 partially funded by your shop, which took cases under your  
23 jurisdiction.

24           MR. JONES: Yes.

25           SENATOR PETRIS: And as I remember, they had the best  
26 batting average of any group of attorneys on the results. They  
27 won the most cases and they got the highest awards.  
28



1           That was abolished at Bolt by the Governor's budget cut,  
2   which I very strongly resisted and opposed, and I wrote to the  
3   Governor asking him not to do it. The rationale we got was that,  
4   well, we're consolidating, and we're moving that group up here to  
5   Sacramento. Now, I haven't heard much since then.

6           Can you bring me up to date on what the status of that  
7   clinic is now? Is there anything going on at Bolt at all? If  
8   not, have they moved up here? If so, what are they doing here  
9   and where are they?

10          MR. JONES: Yes.

11          I filed an Annual Report with the Legislature on the  
12   activities of my Department.

13          SENATOR PETRIS: I regret to say I haven't read it yet.

14          MR. JONES: Well, I can well understand that, and I  
15   wasn't mentioning it for that purpose, but only for the purpose  
16   of telling you that in the back of that Report is an attachment.

17          Knowing the sensitivity of that issue before I became  
18   Director, I have instituted within the Department a formalized  
19   clinical education program for our law students that parallels  
20   very much the Bolt program. In fact, I think we've got a better  
21   mouse trap, if you want my opinion.

22          SENATOR PETRIS: There isn't one in Berkeley any more.

23          MR. JONES: There is not a clinic in Berkeley, that is  
24   true. However, the mouse trap we're using now not only involves  
25   one law school, but eight of the top law schools in California,  
26   and uses those students not on a campus remote from the attorneys  
27   in our Department, but in the Department, in the law library, in  
28







1 the law offices of the attorneys where the work is actually  
2 performed.

3 So, the law student gets the benefit of not just working  
4 with one mentor as was the case in Bolt, but rather with the  
5 Department's entire staff.

6 Not only that, we're able to size up those students who  
7 look like good prospective employees for our Department in the  
8 future.

9 So, the advantage of what we're doing now -- and I don't  
10 argue with the Bolt concept. I think in concept it was a good  
11 idea. But I think there were other ways, and I think I can argue  
12 the other side without being combative about it. There are other  
13 ways to accomplish the same result far more effectively, really,  
14 with more students, more law schools, and a better chance to see  
15 good students who might prove to be prospective employees,  
16 lawyers, for our Department.

17 SENATOR PETRIS: I think that part of it is admirable  
18 and commendable, but it doesn't justify, it seems to me, removing  
19 a unit.

20 Why not do both? Why not keep the one at Berkeley,  
21 which was in an urban setting, close contact with a lot of people  
22 who had problems? They certainly weren't limited to the law  
23 school students. You know, the people with the problems were out  
24 there in the community, easily accessible back and forth.

25 I don't know how that would work at Stanford, for  
26 example, if it's one of your eight schools. You mentioned the  
27 eight best; they've got to be first or second.



1 MR. JONES: Right in there.

2 SENATOR PETRIS: How would it work at Stanford? Do you  
3 have a branch office in Palo Alto?

4 MR. JONES: Well, you've got to remember, Senator, when  
5 you start having branch offices, say, on the campuses, then you  
6 have the expense that that entails in terms of legal services,  
7 clerical support, and those kind of things.

8 I think there's probably a common misperception about  
9 the Bolt program, that it was in the nature of like a California  
10 Rural Legal Assistance Program, or a legal aid clinic, where say  
11 a person without funds could walk in and get free legal advice.  
12 That really wasn't the case at all.

13 The cases that were handled at Bolt were assigned there  
14 out of Sacramento. In fact, as I understand the Bolt program,  
15 the vast majority of cases that the students at Bolt handled were  
16 in Fresno. In fact, we lost one student in a tragic car accident  
17 traveling from the Bolt facility in Berkeley to Fresno for the  
18 hearing. The vast majority of hearings were in Fresno,  
19 California.

20 So, we had one attorney at Bolt traveling, escorting  
21 students down to Fresno to have these trials. That didn't make a  
22 whole lot of sense.

23 SENATOR PETRIS: How does it work now? Which are the  
24 law schools that are participating?

25 MR. JONES: Without pulling out my file and telling you,  
26 it's all the leading law schools: the Hastings School of Law, UC  
27 Davis, the Martin Luther King School of Law, UCLA, USC, I believe  
28 Stanford's in there --



1           SENATOR ELLIS: Is San Diego in there?

2           MR. JONES: Yes, we've got a San Diego school in there.

3           SENATOR PETRIS: How does it work physically? What  
4 happens? You still send cases out from the --

5           MR. JONES: Yes.

6           SENATOR PETRIS: -- headquarters, so to speak, to a law  
7 school?

8           MR. JONES: Well, the students are coming into the  
9 Department for their training in the Department. And they come  
10 in on two bases: they either --

11          SENATOR PETRIS: Come where? Sacramento?

12          MR. JONES: Sacramento, or Northern California or  
13 Southern California.

14                 And they either get units for their work -- through the  
15 law school there's programs where they come and work with us, we  
16 write reports on their progress, they get units for, say, a  
17 semester's work or a year's work. Or, if they happen to meet  
18 federal guidelines under the Federal Work Study Program, they  
19 actually get compensated for the time that they're in our  
20 Department.

21                 But when they're in our Department, like the Bolt  
22 program, we not only permit them to write briefs and do research,  
23 but they also go to the hearings and actually present oral  
24 arguments, cross examine witnesses, do all the same things that  
25 they did at Bolt Hall.

26          SENATOR PETRIS: I'm familiar with that.

27

28





1 Now, the leading schools, however, in this program don't  
2 include Bolt for some reason or other.

3 MR. JONES: No, we've had students from Bolt working in  
4 the office, by all means.

5 The only difference between what was before and what is  
6 now is, we don't have an attorney assigned to the campus of Bolt,  
7 taking students into hearings and transporting them, you know,  
8 all over Northern California to try these cases.

9 It was also important, too, in terms of when we had a  
10 terrible time, a very painful time, assimilating our legal office  
11 in Sacramento, and that whole Bolt program was a part of that.

12 Our Chief Counsel -- we're a brand new Department.  
13 We're only five years old. We've had a Chief Counsel here in  
14 Sacramento with absolutely no staff. And in my 20 years of  
15 experience, it's the only time I've known where you have a Chief  
16 Counsel with no support, nobody -- you know, you can't have your  
17 attorneys all, say, in San Francisco or elsewhere. You need some  
18 support around to assign work to, such as legislative reports,  
19 opinions, and of course the cases themselves.

20 So, the Bolt program was a part of that. We really  
21 needed to consolidate services in Sacramento for more efficiency.

22 SENATOR PETRIS: What is only five years old?

23 MR. JONES: The Department of Fair Employment and  
24 Housing is only five years old. The law goes back 20 years, but  
25 in terms of our status as a Department, we only came into being  
26 in 1980. Prior to that time we were a division floating around  
27 in the Department of Industrial Relations.  
28



1           So, we've only had, I think, two Directors before me. I  
2 think Alice Lytle was one of those and Joanne Lewis, as I recall,  
3 and of course Mark Guerra.

4           SENATOR PETRIS: How do you interrelate, if at all, with  
5 the Fair Employment Practices Commission?

6           MR. JONES: That is now the Fair Employment and Housing  
7 Commission, and the best way I can describe that to you is, we're  
8 the district attorney; we're the prosecutor. And our Commission,  
9 who are all appointed by the Governor, are the deciding body;  
10 they're the judges.

11          SENATOR PETRIS: Hasn't that been in effect since the  
12 time the FEPC was first enacted?

13          MR. JONES: Oh, yes. I'm not saying the law isn't very  
14 old. All I said was that our status as a Department is  
15 relatively new.

16          SENATOR PETRIS: It was just a change in status, but the  
17 lawyers have always been there to enforce the law.

18          MR. JONES: Oh, yes, in much smaller amounts. We now  
19 have a staff of twelve attorneys. In the beginning, of course,  
20 there was only one and maybe two.

21          In fact, in the old days they used to resolve  
22 discrimination cases by the members of this Commission riding  
23 around in a car with a member of the staff. They didn't even  
24 meet as a public body, like this Committee. They would just go  
25 out there and solve those cases. The Commissioners would  
26 actually go out --

27          SENATOR PETRIS: Go out in the field.  
28



1 MR. JONES: -- go out in the field in a car and have the  
2 file in the back seat.

3 We've come a long ways since then.

4 SENATOR PETRIS: One other subject area is punitive  
5 damages that the Supreme Court knocked down.

6 MR. JONES: Yes.

7 SENATOR PETRIS: That has a history of, what, five years  
8 of the use of punitive damages?

9 MR. JONES: Yes, that's correct.

10 SENATOR PETRIS: And the Court indicated there really  
11 wasn't any authorization in the statute for that?

12 MR. JONES: That's correct.

13 SENATOR PETRIS: I have a bill that authorizes it.

14 MR. JONES: I think I'm aware of that bill.

15 SENATOR PETRIS: You are?

16 MR. JONES: Yes, I believe -- yes, I think there's  
17 several efforts, as I've heard to --

18 SENATOR PETRIS: From the standpoint of your agency and  
19 your mission, even though punitives are not in the statute now,  
20 would that be a help to you in doing the work?

21 Should punitive damages be included the way they have  
22 been in the last five years?

23 MR. JONES: We're doing a lot of -- we've got a lot of  
24 things on the chalk board in response to that Supreme Court  
25 decision, the Dyna-Med decision. One of the things that concerns  
26 me about that decision is, not only did the Court say there was  
27 no statutory authority for punitive damages, but they also said  
28







1 in several places, and you have to squirm a little bit when you  
2 read it, that it says they didn't think administrative agencies  
3 should be in the business of adjudicating punitive damages;  
4 that's in the nature of criminal penalties, you know, civil  
5 penalties.

6 And it's that kind of language that gives me pause to  
7 wonder whether even a statute -- well, certainly a statute if  
8 adopted would wind up again in the Supreme Court by the parties  
9 involved in that case. And we're taking a serious look as to  
10 whether there are equally efficacious ways of having that  
11 punitive damage sanction in our hand without having it in its  
12 present form.

13 SENATOR PETRIS: What's the maximum award you can impose  
14 without the punitive damages?

15 MR. JONES: Well, presently the Commission has the  
16 authority to award compensatory damages which can fully  
17 compensate the employee for not only lost wages and lost  
18 opportunity, but pain and suffering and emotional distress.

19 That's the subject of another case that hasn't been  
20 argued yet up at the Supreme Court, and we really don't know how  
21 they're going to come down on that.

22 But to answer your question, the damages that the  
23 Commission has passed out have reached six figures. I know even  
24 with the three Deukmejian Appointees to the Commission, there  
25 were three new lawyers appointed to that, and it was somewhat  
26 feared that maybe the Governor had a different agenda with  
27 respect to civil rights in California. And the Commission at its  
28



1 first meeting with these three new lawyers passed out awards  
2 exceeding six figures.

3 So, I don't see a major -- I don't see major changes or  
4 shifts simply in the makeup of the Commission, but I think the  
5 complicated question of compensatory and punitive damages is  
6 going to have to be thought through very carefully.

7 I think I agree with you that our Department needs the  
8 tool, needs some kind of --

9 SENATOR PETRIS: That's what I want to know.

10 MR. JONES: It's a question of what kind of tool do we  
11 wind up with.

12 On our housing side of the law, we have presently a  
13 statute that gives us punitive damage authority up to \$1,000.

14 SENATOR PETRIS: Is that being challenged also?

15 MR. JONES: No -- well, we had a case where the  
16 Commission awarded \$20,000 in punitive damages in a housing case  
17 by saying there were 20 separate counts --

18 SENATOR PETRIS: Separate incidents.

19 MR. JONES: -- and that's really, I think, a little  
20 cutsie-pie, you know, in terms of running up the punitive  
21 damages. And I think it's that kind of decision that the courts  
22 are going to have trouble with, you know, in terms of the housing  
23 cases.

24 I'm very cautious about that, too. I certainly wouldn't  
25 have urged the Commission to do that, but it did it.

26 SENATOR PETRIS: Thank you.

27 CHAIRMAN ROBERTI: Any further questions?  
28



1 SENATOR CRAVEN: Move Mr. Jones.

2 CHAIRMAN ROBERTI: Senator Craven moves Mr. Jones'  
3 confirmation to the Floor do pass.

4 Is there any opposition?

5 Secretary, call the roll.

6 SECRETARY WEBB: Senator Ellis.

7 SENATOR ELLIS: Aye.

8 SECRETARY WEBB: Senator Mello.

9 SENATOR MELLO: Aye.

10 SECRETARY WEBB: Senator Petris.

11 SENATOR PETRIS: Aye.

12 SECRETARY WEBB: Senator Craven.

13 SENATOR CRAVEN: Aye.

14 SECRETARY WEBB: Senator Roberti.

15 CHAIRMAN ROBERTI: Aye.

16 The vote is five to nothing; confirmation is recommended  
17 to the Floor.

18 MR. JONES: Thank you very much, Senators.

19 CHAIRMAN ROBERTI: Next appointment is Dennis Malody,  
20 Member of the California State Lottery Commission.

21 Mr. Malody, we'll ask you what we ask al the Governor's  
22 Appointees: Why do you feel you're qualified to assume this  
23 position?

24 MR. MALODY: Mr. Chairman, Committee Members, I offer my  
25 qualifications as: I am a certified public accountant, licensed  
26 to practice within the State of California; have been a  
27 practicing accountant for 25 years.  
28





1 In addition to being a certified public accountant, in  
2 my working career I spent about seven years in school  
3 administrative capacities.

4 The nature of the Lottery, I feel that this gives me  
5 more background in relationship to my public accounting in  
6 addition to my school background.

7 I have been operating in this capacity for the past  
8 eleven months. I feel confident that I can do the job. I'm here  
9 for your approval to do so.

10 CHAIRMAN ROBERTI: Something that always comes up to me  
11 when I talk to my constituents is --

12 MR. MALODY: Besides the six numbers?

13 (Laughter.)

14 CHAIRMAN ROBERTI: Yes, besides the six numbers, are two  
15 things. Number one, most people think the prizes are too few and  
16 too large.

17 MR. MALODY: That's a common --

18 CHAIRMAN ROBERTI: That's an absolute comment.

19 And the other, older people, especially if an older  
20 person wins, I mean they have maybe one or two -- especially  
21 somebody in his 70s and who doesn't have much life expectancy to  
22 enjoy the Lottery, and it's really not too thrilling to realize  
23 that your third cousin's going to inherit it.

24 MR. MALODY: But it makes the heirs real happy.

25 (Laughter.)

26 CHAIRMAN ROBERTI: I know. If they're the children,  
27 it's fine, but not everybody has close heirs.  
28



1 I tend to think something should be done about that.

2 MR. MALODY: Response to the first question as far as  
3 the prize structure, there's a lot of continuing research going  
4 on. However, I've heard this, but I'm also aware of when people  
5 play. And believe me, when the pots are big, the people play  
6 more.

7 So, although we hear this from our constituents and our  
8 people, I'm not sure they're the ones that are playing the game,  
9 because when we have these large prizes, we do have Lotto mania  
10 and so on and so forth.

11 As to the other situation, the longevity, as a result of  
12 the way the prize structure is set up, it's because it's over a  
13 20-year period that allows us to fund such a large prize because  
14 we fund it as the monies are received.

15 CHAIRMAN ROBERTI: Could there be some exception made  
16 for someone who, when they're close to their life's expectancy,  
17 that -- I don't watch it too often, but I've turned on the "Big  
18 Spin", and all this hoopla, and a woman in her 70s was spinning  
19 the wheel, and the poor lady only won \$50,000.

20 MR. MALODY: She received all of that.

21 CHAIRMAN ROBERTI: But that's also all she would have  
22 won if she'd won the million dollars.

23 I just doesn't strike me as all players being treated  
24 the same.

25 MR. MALODY: Because of the nature of the structure, I  
26 don't know how you can single out a specific class and make the  
27 system work.  
28



1           Because of the nature of ways the prizes are funded, and  
2 the actuaries that are involved with it, I don't know how you can  
3 do that.

4           I'd be receptive to ideas on how to accomplish that.  
5 I'm not aware of any way you could specifically, the way that  
6 it's set up and the way that it's programmed and the way that it  
7 actuarially works, how you could do that.

8           SENATOR ELLIS: Was that part of the initiative  
9 language, that it would be spread over 20 years?

10          MR. MALODY: I believe that that -- you've asked me a  
11 question I don't know the answer to.

12          SENATOR ELLIS: If it isn't, then we can change it.

13          MR. MALODY: That's correct.

14          SENATOR ELLIS: It seems to me that, I know the theory  
15 is you deposit a certain amount, and the compounding and all, you  
16 don't really give the person a million dollars for 20 years. You  
17 give him far less, and I understand why that's done.

18          But on the other hand, it seems to me that the person  
19 should be given some choice. If they want to take the million  
20 bucks and pay their taxes up front and blow the rest, that's  
21 their fault. If somebody wants to spread it over 20 years or 30  
22 years, or whatever.

23          CHAIRMAN ROBERTI: I think the point is just so you can  
24 say the prize is larger than it really is.

25          I don't think that's fair to somebody who's elderly, who  
26 is told they'll get a million dollars over 20 years, when the  
27 winner's, say, 80 years old.  
28







1 I think it's more candid to say the truth; and that is,  
2 the prize is less than what the people reap in benefits,  
3 especially an older person. I think it has to be absolutely  
4 disconcerting for somebody who thinks they've one a million  
5 dollars and then finds they're not going to be around to enjoy  
6 it.

7 MR. MALODY: One of the questions you asked about the  
8 law, the law is specific in the allocation of the dollar that  
9 comes in: 50 cents will go to prizes; 34 percent will go to  
10 schools; and 16 percent.

11 It's what we do with that 50 cent dollar which is -- can  
12 be changed, obviously, but it's the ability to buy the large  
13 prize with that dollar, or that 50 cents. So, it's always open  
14 for improvement.

15 CHAIRMAN ROBERTI: We're just throwing that out to you.  
16 We might come up with some suggestions, too. It's something I've  
17 really enunciated publicly, but I really hope that we can do  
18 something.

19 If that means that we have to say the prize is less than  
20 it is, I think it should be less than it is.

21 My father buys Lottery tickets maybe once every couple  
22 of days, and he's 84 years old. I hope he's around 20 years from  
23 now to enjoy it if he wins; I hope he wins it.

24 But I mean, it just strikes me as misrepresentation to a  
25 lot of elderly people.

26 SENATOR CRAVEN: Jim made some comment, if you win a  
27 million dollars, let's say, and it's prorated over a period of  
28



1 time, I understand Senator Ellis to say you don't get a million  
2 dollars.

3 Is that what you said, Jim?

4 SENATOR ELLIS: No, the person gets a million dollars,  
5 but a million dollars does not come out of the Lottery pot  
6 because they don't have to. They can deposit a smaller amount,  
7 and as it compounds through the years, you see --

8 SENATOR CRAVEN: Oh, yes.

9 What you're saying is, in effect, they are making the  
10 money by retaining the money; is that it?

11 SENATOR ELLIS: Sort of like that.

12 MR. MALODY: That is not factual.

13 SENATOR CRAVEN: That's not factual?

14 MR. MALODY: Because as we sell a dollar's worth of  
15 tickets, for the large prizes that we're talking about, some of  
16 them are paid out in total.

17 But as we fund the large prizes, we have 50 cents to buy  
18 a prize with. So when the prize of \$25 million is announced,  
19 that's the annuitized value of the \$12 million that has come in  
20 that's available to buy.

21 SENATOR CRAVEN: I see.

22 MR. MALODY: It's a misconception.

23 We do not make the interest on this money. It's the  
24 annuity that we purchase with --

25 SENATOR CRAVEN: You're financing it by virtue of  
26 retention, if you will.

27 MR. MALODY: Exactly.  
28



1           SENATOR CRAVEN: Because if the claim was made on you to  
2 come up with the actual dollars, you'd be in bad shape; wouldn't  
3 you?

4           MR. MALODY: No, we wouldn't, because we have  
5 annuitized. We have bought an annuity for that program.

6           SENATOR CRAVEN: But doesn't an annuity have a run time?

7           MR. MALODY: Yes, exactly, and it's over 20 years.

8           SENATOR CRAVEN: But I'm going to win tonight --

9           MR. MALODY: Okay.

10          SENATOR CRAVEN: -- probably no more than a million or  
11 two, whatever it may be.

12          But you really are projecting that by virtue of what is  
13 on deposit in an annuitized sense to the ultimate or terminal  
14 take of 20 years hence?

15          MR. MALODY: That's correct, Senator.

16          SENATOR CRAVEN: Well anyway, just bring it down in a  
17 manila envelope.

18                               (Laughter.)

19          CHAIRMAN ROBERTI: Any further questions? Any  
20 observations? Senator Petris.

21          SENATOR PETRIS: This was triggered by yours.

22          The complaints I get, my players are at the other end of  
23 the scale. They feel there ought to be a lot more prizes around  
24 \$100,000-200,000-300,000 as opposed to the 20 million, or 18, or  
25 20, or 12.

26          MR. MALODY: Right.

27

28





1           SENATOR PETRIS: How does that come out in your numbers?  
2 You indicated when you give the huge prizes, it really does boost  
3 sales because everybody wants to win that big money.

4           MR. MALODY: That's correct.

5           SENATOR PETRIS: But there are a lot of people who say,  
6 you know, it's an insult to give me back a dollar, \$2, \$5. Get  
7 rid of those and sprinkle the state around with some 50-100,000  
8 instant winners; 100,000 for example, have a lot more of those.

9           Would that come out, and how would that affect sales?

10          MR. MALODY: Our marketing department does a great deal  
11 of after purchase research, talking to the people who play.

12          Our prize pools and so forth are attempted to be set by  
13 the conversations with those people that are playing. And we get  
14 all sides of this.

15          The dollars that we pay out directly, obviously, bring  
16 down the size of the big prizes because there's more dollars  
17 directly going out and not going into the annuity program.

18          I'm only privy to what marketing is telling us from  
19 these surveys, but marketing surveys indicate that if we give too  
20 low of a prize -- it seems to be somewhere around \$10-25,000 that  
21 seems to make the players of the scratch-off games happy. The  
22 players want to see odds, you know: one-in-nine, one-in-five,  
23 one-in-four. You know, they'd obviously like one-in-one. But we  
24 couldn't do too well doing that.

25          But it's trying to satisfy all of those needs. And if  
26 you watch, every one of our games tends to change the prize  
27 structure. If you'll notice, you're not seeing the big \$12-14  
28



1 million in Big Spin prizes now. They're more in the \$2 million  
2 range that the people are winning.

3 So, we are trying to accommodate more of the -- the Big  
4 Spin wheel is being changed so there's more people winning  
5 50-100,000.

6 SENATOR PETRIS: Aren't the biggest ones in the Lotto  
7 now?

8 MR. MALODY: Lotto, assuming roll-overs, yes. And the  
9 roll-overs, and you can watch, I guess the night that it was \$25  
10 million, they're buying them at the rate of \$70-75,000 a minute.

11 SENATOR PETRIS: A minute?

12 MR. MALODY: A minute.

13 SENATOR PETRIS: You ought to postpone the drawing.

14 Thank you.

15 SENATOR ELLIS: I might point out, if I may, I went down  
16 to the Lottery headquarters last week to see what the operation's  
17 all about. And they have a thing there; it's like a speedometer  
18 on a car or on a gasoline pump when it's spinning over. And that  
19 just instantaneously records money that is being deposited at that  
20 point.

21 It was just before a \$23 million one, I think, the day  
22 before, and it was going so fast you couldn't see it. It just  
23 sshhrr--rr--rr--sshh!

24 SENATOR CRAVEN: I'm going to rest easier tonight.

25 (Laughter.)

26 CHAIRMAN ROBERTI: Any opposition? Is there a motion  
27 before us?  
28



1 SENATOR CRAVEN: Move.

2 CHAIRMAN ROBERTI: Senator Craven moves.

3 Secretary will call the roll.

4 SECRETARY WEBB: Senator Ellis.

5 SENATOR ELLIS: Aye.

6 SECRETARY WEBB: Senator Mello.

7 SENATOR MELLO: Aye.

8 SECRETARY WEBB: Senator Petris.

9 SENATOR PETRIS: Aye.

10 SECRETARY WEBB: Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Senator Roberti.

13 CHAIRMAN ROBERTI: Aye.

14 The vote is five to nothing; confirmation is recommended  
15 to the Floor.

16 Congratulations.

17 MR. MALODY: Thank you.

18 (Thereupon this portion of the Senate  
19 Rules Committee hearing was terminated  
20 at approximately 4:25 P.M.)

21 --oo0oo--  
22  
23  
24  
25  
26  
27  
28





CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

8<sup>th</sup> day of February, 1988.

  
EVELYN MIZAK  
Shorthand Reporter

















